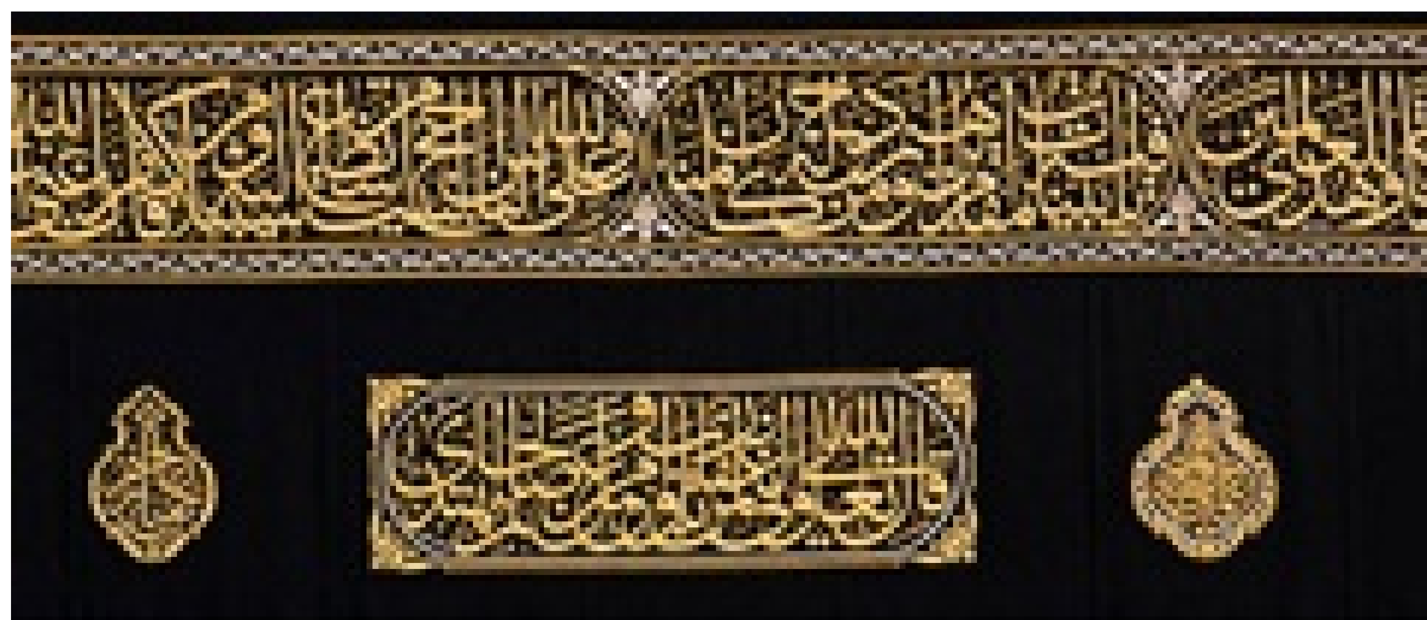


Hajj The Islamic Pilgrimage According to The Five Schools of Islamic Law

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The Hajj

The Acts of the Hajj

At the beginning, in order to make it easier for the reader to follow the opinions of the five schools of fiqh about various aspects of Hajj, we shall briefly outline their .sequence as ordained by the Shari'ah

The Hajj pilgrim coming from a place distant from Mecca assumes ihram(١) from the miqat(٢) on his way, or from a point parallel to the closest miqat, and starts reciting the talbiyah.(٣) In this there is no difference between one performing `Umrah mufradahor any of the three types of Hajj (i.e. tamattu, ifrad, qiran). However, those (who live within the haram(۴) of Mecca assume ihram from their houses.'(۵

i.e. `God is the greatest') and) اللَّهِ أَكْبَر On sighting the Holy Ka'bah, he recites takbir i.e. `There is no god except Allah') which is mustahabb (۶) (desirable,) لا إله إلا الله tahlil though not obligatory). On entering Mecca, he takes a bath, which is again mustahabb. After entering al-Masjid al-Haram, first he greets the Black Stone (al-Hajar al-'Aswad) - if possible kisses it, otherwise makes a gesture with his hand - then makes the tawaf (seven fold circumambulation of the Ka'bah) of the first entry, which is mustahabb for one performing Hajj al-'ifrad or Hajj al-qiran. Then he offers

the two raka'at of the tawaf, again greets the Black Stone if

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Ihram' is the state of pilgrim sanctity, which a pilgrim of Hajj or `Umrah assumes` -۱ (.on reaching miqat (see note No. ۲). A pilgrim in the state of ihram is called muhrim. (Tr

Miqat (pl. mawaqit) refers to a number of stations outside Mecca from where the -۲ pilgrims intending Hajj or `Umrah assume ihram. They are: (۱) Dhu al…Hulayfah (specifically, Masjid al…Shajarah); (۲) Yalamlam; (۳) Qarn al…Manazil; (۴) al…Juhfah; (۵) three points situated in the valley of al…`Aqiq: al…Maslakh, al…Ghamrah, and Dhat al…`Irq. Those pilgrims whose houses are nearer to Mecca than to any of the above (.mawaqit, assume ihram from their houses. (Tr

The talbiyah is wajib according to the Imamiyyah, Hanafi, and Maliki schools, and -۳ .mustahabb according to the Hanbalis. Its time is the moment of beginning of ihram

The area roughly within a radius of six miles, with the Holy Ka'bah at the centre, is -۴ called 'haram', the sacred and inviolable territory of the sanctuary of the Holy Ka'bah. See the brief discussion under the subheading; "The Limits of the Harams of Mecca (.and al…Madinah" in the present article. (Tr

According to the Imamiyyah school, Hajj al-tamattu` is obligatory for- ۵ non…Meccans, and Meccans may choose between Hajj al-qiran and Hajj al…'ifrad. According to the four Sunni schools, there is no difference between a Meccan and a non…Meccan with regard to choice of any particular kind of Hajj, except that according .to the Hanafi school Hajj al-tamattu` and Hajj al-qiran are makruh for the Meccan

The tawaf of the first entry or the arrival (called tawaf al…qudum) is mustahabb -۶ .from the viewpoint of all except the Maliki school, which regards it as obligatory

he can, and leaves al_Masjid al_Haram. After this, he remains in the state of ihram in Mecca. On the day of tarwiyah, i.e. the eighth day of the month of Dhu al_Hijjah, or if .he wants a day earlier, he goes forth towards `Arafat

If the pilgrim has come for `Umrah mufradahor Hajj al-tamattu; he performs the tawaf of the entry, which is obligatory (wajib) for him, and prays the two raka'at of the tawaf. Then he performs the sa'y between Safa and Marwah, and, following it, the halq (complete head shave) or taqsir (۱) (partial shortening of the hair of the head). Then he is relieved of the state of ihram and its related restrictions, and things prohibited in ihram become permissible for him, including sexual intercourse. (۲) Then he proceeds from Mecca after assuming ihram for a second time, early enough to be present at the wuquf (halt) at `Arafat (referred to as `mawqif, ; i.e. the place of halting) at noontime on the ninth of Dhu al_Hijjah. Assumption of ihram on the day of .tarwiyah, i.e. eighth Dhu al_Hijjah, is preferable

The Hajj pilgrim, irrespective of the type of Hajj he intends to perform, turns towards `Arafat, passing through Mina. The period of the wufuq at `Arafat is, for the Hanafi, Shafi`i, and Maliki schools, from the noon of the ninth until the day break of the tenth; for the Hanbali school, from the daybreak of the ninth until the daybreak of the tenth; and for the Imamiyyah, from

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۱- According to the Imamiyyah school, one is free to choose between halq and taqsir if on `Umrah mufradah'. But a pilgrim on Hajj al-tamattu` is required to perform taqsir. Also according to the Imamiyyah, it is obligatory for one on `Umrah mufradah to perform, after the halq or taqsir, a second tawaf, the tawaf al-nisa', before which sexual intimacy is not permissible to the pilgrim. According to the four Sunni schools, one is free to choose between halq and taqsir in both. They do not require the pilgrim of Hajj or 'Umrah to perform tawaf al-nisa; and according to the Maliki school halq or .taqsir is not obligatory on one performing `Umrah mufradah

۲- According to the Imamiyyah school, the mutamatti` (pilgrim on Hajj al-tamattu' and its conjugate `Umrah) acquires tahlil (i.e. relief from ihram) after taqsir, even

when he brings along with him the sacrificial animal (hady). But according to the other schools, the mutamatti` who assumes ihram for `Umrah from the miqat obtains tahlil on halq or taqsir when not accompanied by hady, but if he has brought along with him the hady, he remains in the state of ihram. However, according to them, the pilgrim of `Umrah mufradah obtains tahlil regardless of whether the hady accompanies him or not. The author of al-Mughni, after making the above statement, says, "I have not come across a contrary opinion on this matter."

non until sunset on the ninth, and in exigency until the daybreak of the tenth. (۱) The pilgrim offers invocations (dua') at `Arafat, preferably (istihbaban) in an imploring .manner

Then he turns towards Muzdalifah (also called al…Mash'ar al…Haram), where he offers the Maghrib and Isha' prayers on the night of the `Id (i.e. the tenth of Dhu al…Hijjah). Offering the two prayers immediately after one another is considered mustahabb by all the five schools. According to the Hanafi, Shafi'i, and Hanbali schools, it is obligatory to spend this night (i.e. the night of the `Id) at Muzdalifah; for the Imamiyyah, it is not obligatory but preferable. After the daybreak, he makes the wuquf at al…Mash'ar al…Haram, which is wajib for the Imamiyyah and mustahabb for other schools. And at .Muzdalifah, preferably, he picks up seven pebbles to be thrown at Mina

After this, he turns towards Mina before sunrise on the day of `Id. There he performs the ritual throwing of stones, called ramy, at Jamarat al…`Aqabah, no matter which of the three kinds of Hajj he is performing. The ramy is performed between sunrise and (sunset, preferably (istihbaban

i.e. proclaiming God's glory by saying `How) سُبْحانَ اللَّهِ accompanied by takbir and tasbi .('!far God is from every imperfection

Then if a non…Meccan on Hajj al-tamattu; he should slaughter the sacrificial animal (a camel, cow or a sheep), by agreement of all the five schools. However, it is not .obligatory for one on Hajj al…'ifrad; again by consensus of all the five schools

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According to the Imamiyyah school, the halt in Arafat is obligatory for the entire - ۱ period of time. But according to the other schools, a moment of halt is sufficient. All the legal schools are in agreement that offering the zuhr (noon) and `asr (afternoon) prayers immediately after one another is mustahabb, because the Prophet (s) had .done so

For one on Hajj al-qiran, the sacrifice is obligatory from the viewpoint o the four Sunni schools, and for the Imamiyyah it is not obligatory except when the pilgrim brings the .sacrificial animal (al…hady) along with him at the time of assuming ihram

For a Meccan performing Hajj al-tamattu; the sacrifice is obligatory from the .viewpoint of the Imamiyyah school, but not according to the four Sunni schools

After this, he performs the halq or taqsir, irrespective of the kind of Hajj he is performing. After halq or taqsir, everything except sexual intercourse becomes permissible for him according to the Hanbali, Shafi'i and Hanafi schools, and according .to the Maliki and Imamiyyah schools, everything except intercourse and perfume

Then he returns to Mecca on the same day, i.e. the day of the ` Id, performs the tawaf al…ziyarah, prays its related two raka'at, regardless of which kind of Hajj he is performing. After this, according to the four Sunni schools, he is free from all restrictions including that of sexual intercourse. Then he performs the sa’y between Safa and Marwah if on Hajj al-tamattu; by agreement of all the five schools. For the Imamiyyah school, the sa’y after tawaf al…ziyarah is also obligatory for one performing Hajj al-qiran and Hajj al…'ifrad. But for other schools, it is not obligatory if .the pilgrim had performed the sa’y after the tawaf of first entry, otherwise it is

For the Imamiyyah, it is obligatory for all the types of Hajj to perform another tawaf after this sa’y. Without

this tawaf, called tawaf al-nisa; one is not relieved of the interdiction of abstinence .from intercourse

Then the pilgrim returns to Mina on the same day, i.e. the tenth, where he sleeps on the night of the eleventh, performs the threefold throwing of stones (ramy al jamarat) during the interval from the noon until the sunset of the eleventh... by consensus of all the five schools. For the Imamiyyah, the ramy is permissible after sunrise and before noon. After this, on the day of the twelfth, he does what he had done the day before. All the legal schools agree that he may now depart from Mina before sunset. And if he stays there until sunset, he is obliged to spend the night of the thirteenth there and to .perform the threefold ramy on the day of thirteenth

After the ramy, he returns to Mecca, before or after noon. On entering Mecca, he performs another tawaf, tawaf al...wada` (the tawaf of farewell), which is mustahabb for the Imamiyyah and Maliki schools and obligatory for the non...Meccans from the .viewpoint of the remaining three. Here the acts of the Hajj come to conclusion

(The Conditions (Shurut) that make the Hajj Obligatory (Wajib

The Proviso of Bulugh

The Hajj is not obligatory for children, regardless of whether a child is of the age of discretion (mumayyiz) or not (ghayr mumayyiz). For a mumayyiz child, the Hajj is voluntary and valid. However, it does not relieve him/her of the obligation to perform the obligatory Hajj (called hijjat ib) for a Muslim are: maturity (bulugh), sanity (`aql), (and `capability' (istita'ah).al...'Islam

later as an adult possessing istita'ah; this, in case he/she does not attain adulthood .before the wuquf. On this all the five schools of fiqh are in agreement

It is permissible for the guardian (wali) of a ghayr mumayyiz child to take him along on the Hajj pilgrimage. In that case, he puts on the child the dress of ihram; instructs him to say the talbiyah, if the child can say it well, or otherwise says it himself on the child's behalf; and is cautious lest the child commits some act unlawful (haram) for the pilgrims (hujjaj). The accompanying guardian also tells him to perform every act that the child can perform himself, and what he cannot, the guardian performs it on the .child's behalf

The schools of fiqh differ on two questions relating to the Hajj of a mumayyiz child: firstly, whether his Hajj is valid, irrespective of the permission of the guardian; secondly, whether he is relieved of the obligation of Hajj if he attains adulthood before mawqif. According to the Imamiyyah, Hanbali, and Shafi'i schools, the guardian's permission is a provision for the ihram to be valid. According to Abu Hanifah, the idea of validity is inapplicable to the child's Hajj, even if mumayyiz, and regardless of whether he obtains the permission of the guardian or not; because, according to him, there is nothing to a child's Hajj except its significance as an .(exercise (Fath al-Bari, al-Mughni, al-Tadhkirah

According to the Imamiyyah, Hanbali and Shafi`i schools, if the child

attains adulthood before mawqif, his obligatory duty of Hajj (hijjat al-'Islam) is thereby fulfilled. And according to Imamiyyah and Maliki schools, the duty is fulfilled if he renews ihram (as an adult), otherwise not; which means that he should start the (Hajj all over again from the beginning. (al-Tadhkirah

Insanity

Basically the condition of insanity relieves a person of all duties. Even if he was to perform the Hajj, and presumably in the way expected of a sane person, it would not fulfil his obligatory duty were he to return to sanity. If his insanity is periodic, when regained for a sufficiently long interval it is wajib for him to perform the Hajj with all its conditions and in all its details. However, if the interval of sanity is not sufficient to .perform all the acts of the Hajj, he is quit of the obligation

Istita'ah

All the five schools of fiqh agree that istita`ah is a requirement for the Hajj duty to :become obligatory as mentioned by the Qu'ranic verse

مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلًا

whoever is able to make his way there"). The Qur'an, ٣:٩٧ ...")

However, there is disagreement about the meaning of istita`ah. In hadith it has been defined as consisting of "al-zad wa al-rahilah". `Al-rahilah' implies the expenses of to and fro journey to Mecca, and `al-zad' stands for the expenses required for transport, food, lodging, passport fees, and the like. Moreover, the funds needed to meet such expenses must come out of the surplus after paying one's debts, after arranging for

one's family's livelihood, meeting the requirements of one's source of income (such as land for a farmer, tools for a craftsman, capital for a tradesman, and so on), and .without compromising the security of his life, property and honour

All schools agree about it except the Malikis, who say that the duty of Hajj is obligatory for anyone who can walk. The Malikis also do not consider the necessity of providing for the living expenses of the family. Rather, they consider it compulsory for one to sell off his essential means of life, such as land, livestock, tools, and even books .(and unessential clothes. (al_Fiqh `ala al_madhahib al_'arba`ah

If a person upon whom the Hajj duty is not obligatory due to absence of istita'ah, takes upon himself the burden and performs the Hajj, in case he attains istita'ah afterwards, is his first Hajj sufficient or should he perform the Hajj once again? According to the Maliki and Hanafi schools, yes, repetition is not compulsory. According to the Hanbali school, yes, but a duty left unattended, such as an unpaid .debt, must be discharged

According to the Imamiyyah school, it does not suffice the obligation of Hajj if he attains istita'ah afterwards, because the provisional is inseparable from the provision both in its presence and its absence. The Hajj performed before the attainment of istita'ah is considered supererogatory (nafl). Later, with its realization, repetition of .the Hajj becomes obligatory

(Immediacy (al_Fawr

The Imamiyyah, the Maliki, and the Hanbali schools consider the obligation (wujub) of the Hajj

duty to be immediately applicable (fawri); i.e. it is not permissible to delay it from the moment of its possibility. It is sinful to delay, though the Hajj performed with delay is correct and fulfils the obligation. The author of al-Jawahir says:

The immediacy of the obligation of Hajj means that it is necessary to take initiative to perform the Hajj in the first year of attaining istita'ah, and failing that at one's next earliest opportunity.... Thereafter, there is no doubt about the sinfulness of the delay if one were to forgo the first opportunity in the case of absence of another.

According to the Shafi`i school, the obligation of Hajj is not immediate (upon attainment of istita'ah); rather one may delay it and perform it when he wishes.(1) According to Abu Yusuf, the Hajj is an immediate obligation. Muhammad ibn al-Hasan considers delay (tarakhi) permissible. Abu Hanifah has no explicit text on the matter, though some of his contemporaries state that he implicitly believes in the immediacy of the obligation.

Secondary Issues Related to Istita`ah

Women and the Hajj

Are there any additional conditions for women with regard to performance of the Hajj? All the five schools agree that it is not required that a woman should obtain the husband's permission for the obligatory Hajj duty, nor may he prevent her from undertaking it. However, there is a difference of opinion about whether the Hajj is obligatory upon her or not if she does not find a husband or a mahram (2) to accompany her on the journey.

According to

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1 - Although the times have tended to support this opinion, and even though the traditions in favour of immediacy (al-fawr) of the duty of Hajj are open to criticism and controversy, but it leads towards negligence, and gradually towards abandonment of this sacred rite. Accordingly, the stress on immediacy is preferable, being more

conducive from the viewpoint of the necessity to preserve the vitality of the Islamic faith.

2 - Mahram is a male relation with whom marriage is not permissible; viz; father, grandfathers, sons, grandsons, brothers, sons and grandsons of one's sister or brother, etc.

the Imamiyyah, Maliki and Shafi`i schools, the mahram's company or that of the husband is not at all a condition, regardless of whether she is young or old, married or unmarried; since the mahram's company is a means of her safety, not an end in itself. Accordingly, we have two cases: either she feels confident of her security on the journey, or she doesn't. In the first case, the Hajj is obligatory upon her and the mahram's company is irrelevant. In the second case, she lacks the requirement of .istita'ah, in spite of the mahram's company

Accordingly, there is no essential difference between a man and a woman in this .respect

According to the Hanbali and Hanafi schools, the company of the husband or mahram is a provision for the woman's Hajj, even if she were old. It is not permissible for her to perform the Hajj without his company. The Hanafi school further stipulates the .condition that her location should be at a distance of three days' journey from Mecca

(Bequest (al_Badhl

Al…Mughni, a text of Hanbali fiqh, states: "If a person bequeaths money to another, it is not binding upon him to accept it, and it does not make the recipient mustati` (possessing istita'ah), irrespective of whether the bequeathed is a relative or a stranger, regardless of whether the bequest suffices for the expenses of the journey and food. According to al…Shafi`i, if the bequest is made by one's son, enough to .enable him to undertake the Hajj journey, the Hajj becomes obligatory

This is because it enables him to perform the Hajj without having to bear a stranger's .favour or without any accompanying encumbrance or harm

According to the Imamiyyah school, if the bequest is an unconditional gift made without the provision of performing the Hajj by the recipient, the Hajj is not binding, irrespective of who makes the bequest. But if the bequest is made with the condition that one perform the Hajj, the acceptance of the bequest is binding and may not be rejected, even if the bequest is made by a stranger; since it makes him mustati ` to .undertake the pilgrimage

Marriage

What if one has only enough money either to get married or to perform the Hajj? Which of them is prior? The Hanafi text Fath al-qadir (vol. II, "Bab al-Hajj") mentions this question being put to Abu Hanifah, who, in his reply, considered that priority lies with the Hajj. The generality (itlaq) of this answer in which he gives priority to the Hajj, taking into consideration that marriage is obligatory under certain conditions, allows .us to conclude that for Abu Hanifah delay in Hajj is not permissible

According to the Shafi'i, Hanbali and Imamiyyah scholars, marriage has priority if there is likelihood of distress (haraj)or difficulty (mashaqqah)in refraining from marriage. In that case priority does not lie with the Hajj. (Kifayat al-'akhbar, (al-Mughni, al-` Urwat al-wuthqa

Khums and Zakat

Payment of the khums and zakat has priority over the Hajj. The condition of istita'ah is not realized until both are paid off, like other kinds

.of debts

Istita'ah by Chance

If someone travels to a place in the vicinity of the holy city of Mecca, on business or for some other purpose, and his stay continues until the Hajj season, and if it is possible for him to reach the Holy Ka'bah, he thereby becomes mustati`. And if he were to return home without performing the Hajj, by consensus of all the schools, he .is not relieved of the obligation

(Istinabah (Deputation

The Islamic duties (`ibadat) are divisible into three categories, depending on a duty's .nature whether it mainly involves bodily acts or financial expenditure

The purely bodily `ibadat are those which, like fasting (sawm) and prayer (salat), do .١ not involve any financial aspect. According to the four Sunni schools, such duties cannot in any circumstance be delegated to a proxy (na'ib), either on behalf of a living or a dead person. But according to the Imamiyyah school, taking a na'ib is permissible on behalf of a dead person, though not for a living person, to perform sawm and salat .for him, and under all circumstances

The purely financial `ibadat are those which do not involve bodily acts, such as .٢ khums and zakat. In such `ibadat, all legal schools agree, it is permissible to take a na'ib. It is permissible for one to depute another to take out zakat and pay other kind .of alms (sadaqat) from his assets

The duties which involve both bodily and financial aspects, such as the Hajj, which .٣ requires such bodily acts as tawaf (circumambulation of the

Ka'bah), say (to and fro movement between Marwah and Safa), ramy (the symbolic throwing of stones), and financial expenditures such as for the journey and its .accompanying requirements

All the five legal schools agree that one who is capable of undertaking the Hajj in person and fulfils all the conditions thereof, should do so himself in person. It is not permissible for him to depute another to undertake it, and if he does so it would not relieve him of his obligation to perform it himself. If he does not do it in his life, according to the Shafi'i, Hanbali and Imamiyyah schools, he is not relieved of the duty because of the preponderance of the financial aspect, and it is obligatory to hire someone to perform the Hajj with a similar expenditure. In case he does not make a will for the Hajj, the amount should be taken out from his undivided heritage.(١)

According to the Hanafi and Maliki schools, he is relieved of the obligation due to the bodily aspect; but if he mentions it in his will, the expense is taken out from the one third of his inheritance.....like all other bequests.....and if he doesn't, istinabah is not .obligatory

(The Physically Incapable (al_Qadir al_`Ajiz

One who meets all the financial conditions for the Hajj pilgrimage but is incapable of undertaking it personally due to old age or some incurable disease, all the legal schools agree, is relieved of the obligation of performing the Hajj in person, for God :says

وَمَا جَعَلَ عَلَيْكُمْ فِى الدِّينِ

p: ١٣

١- The Imamiyyah, Shafi'i, and Maliki schools permit hiring another person to perform the Hajj for a fee. The Hanafi and Hanbali schools do not consider it permissible. Nothing more than the expenses of journey, food and lodging may be given to the .hired, they say

مِنْ حَرَجٍ

(and He has laid no impediment in your religion ....).(1 ...)

However, it is obligatory upon him to hire someone to perform the Hajj for him. But if he doesn't, is it a negligence of a duty whose fulfilment continues to remain upon him? All the legal schools, with the exception of the Maliki, agree that it is obligatory upon him to hire someone to perform the Hajj for him. The Maliki says that the Hajj is not obligatory upon one who is incapable of undertaking it in person. (al_Mughni, (al_Tadhkirah

Furthermore, if a sick person recovers after deputing someone to perform his Hajj, is it obligatory upon him on recovery to perform the Hajj in person? According to the Hanbali school, another Hajj is not obligatory. But according to the Imamiyyah, Shafi'i and Hanafi schools it is obligatory, because what was fulfilled was the financial .obligation, and the bodily obligation has remained unfulfilled

Istinabah in al_Hajj al_Mustahabb

According to the Imamiyyah and Hanafi legal schools; one who has performed the Hijjat al_'Islam, if he wants to depute another for a voluntary, mustahabb Hajj, may do so, even if he is capable of undertaking it in person. But according to the Shafi`i school, it is not permissible. There are two narrations from Ahmad ibn Hanbal, one .indicating prohibition and the other permission

According to the Maliki school, it is permissible for an incurable sick person and for one who has performed the obligatory Hajj to hire another for the Hajj. The Hajj so performed is

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.The Qur'an, ۲۲:۷۸ -۱

valid, though makruh (reprehensible). It is not considered as the Hajj of the hirer (mustajir) and is counted as the mustahabb Hajj of the hired (ajir).

The hirer gets the reward for providing assistance in the performance of the Hajj and shares the blessings of the prayers offered. When the Hajj is performed for the benefit of a dead person, irrespective of whether he has asked for it in his will or not, it is counted neither as fulfilment of the duty (fard) nor as a supererogatory (nafl)act, nor does it relieve him of the duty of the obligatory Hajj. (al-Fiqh `ala al-madhahib al-'arba`ah).

The Conditions for the Na'ib

The na'ib should fulfil the conditions of: bulugh (adulthood), `aql (sanity), belief in Islam, exemption from the duty of obligatory Hajj, and ability to perform the Hajj properly. A man may represent a woman and a-woman may represent a man, even if both the na'ib and the one whom he represents have not performed the Hajj before.(١)

Should the na'ib commence the journey from his own place or that of the deceased whom he represents, or from one of the mawaqit? According to the Hanafi and Maliki schools, the na'ib should commence the pilgrimage journey from the place of the deceased, if he has not specified the starting point; otherwise according to his wish.

According to the Shafi`i school, the pilgrimage commences from one of the mawaqit; if the deceased person has specified one, then the na'ib must act accordingly, otherwise he is free to choose one

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١ - One who has not performed the Hajj before is called sarurah. According to the Shafi'i and Hanbali schools, if one who has not performed the Hajj before, undertakes it on behalf of another, the Hajj performed is considered his own. But according to the Maliki, Hanafi, and Imamiyyah schools, the Hajj performed depends on his intention (niyyah).

.of the mawaqit

According to the Hanbali school, the na'ib must start from the place that the deceased was obliged to begin from if he had performed the Hajj himself, and not from the place of his death. If the deceased person had attained istita'ah at a place to which he had migrated, later returning to his own place, the na'ib should start from the place of migration, not from the deceased person's home, except when the distance (between his home-town and the place of migration) is less than what is required for qasr in (prayers performed by a traveller. (١

According to the Imamiyyah school, the Hajj is classified into miqati (i.e. one which starts from one of the mawaqit) and baladi (i.e. one which starts from the town of the deceased). If the deceased has specified one of these two kinds, then the one .specified

If he has not specified, any one of the two may be performed. Otherwise the Hajj is miqati and, if possible, starts from the miqat nearest to Mecca, or else the miqat nearest to the town of the deceased. The cost of al-Hijjat al-miqatiyyah is taken out from the undivided legacy in the case of obligatory Hajj, and the expense exceeding (the cost of al-Hijjat al-miqatiyyah is taken from the one third. (al-Jawahir

Delay by the Na'ib

Once the na'ib is hired, it is obligatory for him to act with immediacy. He may not postpone the Hajj beyond the first year. Also, it is not permissible for him

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The minimum distance required for qasr in zuhr, 'asr and 'isha' prayers is ٨ - ١ (.parasangs (approximately ۴۴ kms. or ٢٧.۵ miles). (Tr

to depute another, since the duty is his own. If we do not know that he actually went on the pilgrimage and performed all its essential acts, or if we doubt whether he performed them correctly and properly or not, or whether he failed to fulfil any of its obligatory essentials, then we assume that he acted correctly and properly, unless .there is proof to the contrary

(Change of Purpose by the Na'ib (al_`Udal

According to the Hanafi and Imamiyyah schools, if one species to the na'ib a particular kind of Hajj; such as Jajj al_'ifrad, or Hajj al-qiran; then it is not permissible for him to make any change. However, if a particular town was specified as the starting point and the na'ib starts from another town, the purpose of the one who hires him is considered as fulfilled if the said specification was not really intended by the hirer; i.e. if by mentioning the route he meant the Hajj itself, and not the route specifically. .((al_Tadhkirah, al_Fiqh `ala al_madhahib al_'arba`ah

Al_'Umrah

The Meaning of `Umrah

The word `umrah in common speech "visit", but in the Shari`ah it means paying a visit to the Bayt Allah al_Haram (the Sacred House of God, i.e. the Holy Ka'bah) in a .specific form

The Kinds of `Umrah

The `Umrah is of two kinds: the first which is performed independently of the Hajj (called al_`Umrat al_mufradah al_mustaqillah `an al_Hajj), and the second kind which is performed in conjunction with the Hajj (al_`Umrat al_mundammah ila al_Hajj). The al_`Umrat al_mufradah, the independent `Umrah, all the five legal schools agree, can be performed

at all times of the year, though it is meritorious to perform it during the month of Rajab according to the Imamiyyah, and in Ramadan according to the four Sunni .schools

The time of the conjugate `Umrah, which is performed before the Hajj and in the course of the same journey by the Hujjaj coming to the Holy Makkah from distant countries, by consensus of all five schools, extends from Shawwal to Dhul Hijjah. However, there is disagreement among legists about the month of Dhul Hijjah, whether the entire month or only the first ten days belong to the Hajj season. Anyone who performs the conjugate `Umrah is considered relieved of the obligation to .perform the al-`Umrat al-mufradah by those who believe in its being obligatory

Difference Between the Two Kinds of `Umrah

The Imamiyyah scholars make a distinction between al-`Umrat al-mufradah and :`Umrat al-tamattu`, citing the following reasons

١. The Tawaf al-nisa' (to be explained later) is obligatory in al-`Umrat al-mufradah, .not in the `Umrat al-tamattu; and according to some jurists is forbidden

٢. The time of `Umrat al-tamattu` extends from the first of the month of Shawwal to the ninth of Dhu al-Hijjah, whereas al-`Umrat al-mufradah can be performed at all .times of the year

٣. The pilgrim (mu'tamir) performing the `Umrat al-tamattu` is required to shorten his hair (al-taqsir), whereas the mu`tamir of al-`Umrat al-mufradah can choose between shortening his hair or completely shaving his head (al-halq), as shall be .explained later

۴. The `Umrat al-tamattu` and the Hajj occur in the same year, which is not the case

.with al-`Umrat al-mufradah

Karrarah, in his book al-Din wa al-Hajj `ala al-madhahib al-'arba'ah, says that, according to the Maliki and Shafi`i schools, for the mu'tamir of al-`Umrat al-mufradah all things are permissible, even sexual intercourse, after the shortening of hair (al-taqsir)or the head shave (al-halq), irrespective of whether he brings along with him the sacrificial offering (al-hady) or not. But according to the Hanbali and Hanafi schools, the mu'tamir gets away with al-taqsir or al-halq, if he does not bring the sacrificial offering; otherwise he remains in the state of ihram until he gets .(through the Hajj and the `Umrah on the day of sacrifice (yawm al-nahr

The Conditions of the ʻUmrah

The conditions for the `Umrah are essentially the same as mentioned in the case of .the Hajj

The Status of `Umrah

According to the Hanafi and Maliki schools, the `Umrah is not obligatory but a highly recommended sunnah (sunnah mu'akkadah). But according to the Shafi`i and Hanbali schools and the majority of Imamiyyah legists, it is obligatory (wajib) for one who is mustati`, and desirable (mustahabb) for one who is not mustati: In support, they cite :the Qur'anic verse

وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ

(Perform the Hajj and the `Umrah for Allah.)(١)

Fiqh al-Sunnah, vol. V; al-Fiqh `ala al-madhahib al-'arba`ah; al-Jawahir;) (al-Mughni)(٢

The Acts of the `Umrah

According to al-Fiqh `ala al-madhahib al-'arba`ah, whatever is wajibor sunnah for the Hajj is also wajib and sunnah for the `Umrah. But the `Umrah does differ from the Hajj in certain respects: there is no specific time for performing the `Umrah; it

does not involve the halt (wuquf) in the plain

١- The Qur'an, ٢:١٩٦.

٢- According to al-Mughni, Ahmad ibn Hanbal did not consider the 'Umrah as being obligatory for Meccans, for the reason that the most important act of the 'Umrah is tawaf (circumambulation of the Ka'bah) which they do and it suffices them.

of `Arafat; neither the departure thenceforth to al_Muzdalifah; nor the ramy (al_jamarat.(١

The Imamiyyah book al_Jawahir mentions that: "The obligatory acts (af'al or a'mal) of the Hajj are twelve: ihram; the wuquf at `Arafat; the wuquf at al_Mash'ar al_Haram; the entry into Mina; the ramy; the dhibh (sacrifice); its related taqsir or halq; the tawaf (the sevenfold circumambulation of the Ka'bah), and its related raka'at (units of the length of prayers); the sa'y; the tawaf al-nisa', and its related raka'at. The obligatory acts of al_`Umrat al_mufradah are eight: niyyah (intention); ihram(٢) ; tawaf its related raka'at; the sa'y; the taqsi; the tawaf al-nisa'; and its related ".raka'at

This indicates that all the legal schools agree that the acts of the Hajj exceed those of the 'Umrah by the acts associated with the wuquf. Moreover, the Imamiyyah school considers it obligatory for the performer of the al_`Umrat al_mufradah to perform a second tawaf, the tawaf al-nisa'. Similarly the Maliki school differs from others in .considering halqor taqsir as non_obligatory for al_`Umrat al_mufradah

Two Subsidiary Issues

The obligation (wujub) of al_`Umrat al_mufradah is not connected with the istita`ah .١ for the Hajj. If, supposedly, it is possible for a person to go to Mecca at a time other than that of the Hajj and not possible at the time of the Hajj, then the `Umrah instead of the Hajj becomes obligatory for him. If he dies without performing it, its expense is (taken out from his heritage."(٣

Similarly, if one has istita'ah for Hajj al_'ifrad instead of

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In the book al_Fiqh 'ala al_madhahib al_'arba'ah, it is the author's wont to give the -١ text followed by a commentary and notes. In the text, he states the points of consensus of all the four Sunni schools, the different position of each is given in the commentary. What we have quoted here is taken from the text, not from the

.commentary

According to al_Din wa al_Hajj 'ala al_madhahib al_'arba'ah, by Karrarah, one of the -٢ things which distinguishes the ‘Umrah from the Hajj is that its ihram is not assumed from any of the mawaqit specified for the Hajj. From the Imamiyyah viewpoint, there is no difference between the miqat for one performing ‘Umrah and the miqat for one .on Hajj with regard to ihram

The Imamiyyah author of al_Madarik says: "The better known and sounder of - ٣ opinions is that the obligation of ‘Umrah is independent of the obligation of Hajj." The author of al_Jawahir states, "The statements of fuqaha' are not free of confusion... the one which appears sounder is that those who live far away from Mecca are relieved of the obligation of ‘Umrah mufradah, and that which is obligatory upon them .is 'Umrat al_tamattu; whose wujub is related to that of Hajj

the `Umrah, it becomes obligatory upon him; because each of them is independent of the other. This applies to al…`Umrat al…mufradah. As to `Umrat al…tamattu`, which .shall be explained later, its wujub depends upon that of the Hajj, since it is a part of it

According to the Imamiyyah, it is not permissible for one intending to enter the Holy .٢ Mecca to cross the miqat or enter its haram (sacred precincts) without getting into the state of ihram, even if he has performed the Hajj and the `Umrah many times before. Only when the exit and entry recur several times during month, or when after entering the city as a muhrim he goes out any re…enters for a second time in less than thirty days, it is no obligatory. Therefore, ihram with respect to entry into Mecca is comparable to the wudu' before touching the Holy Qur'an. This clearly demonstrates the baselessness of the lie that the Shi`ah do not consider al…Bayt al…Haram as sacred, and that they pretend to perform the Hajj for the sake of polluting the holy (!) .sanctuaries

According to Abu Hanifah, it is not permissible to go beyond the miqat and enter the haram without ihram, but entry into the remaining area is permissible without ihram. Malik does not agree with this, and two opinions are ascribed to al…Shafi'i on the .matter

This much of discussion about the `Umrah is sufficient for throwing light upon it, so ,that the reader may grasp its difference with the Hajj

.though only in some aspects. What we shall say later will offer further clarification

The Forms of Hajj

All the five legal schools agree that there are three kinds of Hajj: tamattu`, qiran, and ifrad. They also agree that by Hajj al-tamattu` is meant performance of the acts of the `Umrah during the months of the Hajj. The acts of the Hajj itself are performed after getting through the `Umrah. They also agree that by Hajj al…'ifrad is meant performing the Hajj first and then, after getting through the acts of the Hajj, getting into the state of ihram for performing the `Umrah and its related acts. The four Sunni legal schools agree that the meaning of the Hajj al-qiran is to get into ihram for the Hajj and the `Umrah together. Then the talbiyyah uttered by the pilgrim is لبيك اللهم بحج وعمره .

According to the Imamiyyah school, the Hajj al-qiran and Hajj al…'ifrad are one and the same. There is no difference between them except when the pilgrim performing the Hajj al-qiran brings the hady at the time of assuming the ihram. Then it is obligatory upon him to offer what he has brought. But one who performs the Hajj .al…'ifrad has essentially no obligation to offer the hady

In brief, the Imamiyyah do not consider it permissible to interchange two different ihram's,(۱) or to perform the Hajj and the `Umrah with a single niyyah (intention) .under any condition; but the other legal schools permit it in Hajj al-qiran

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۱ - According to al…Jawahir, al…Madarik, al…Hada'iq and other Imamiyyah works on fiqh, it is not permissible for one already in the state of ihram to assume ihram for another purpose, until he completes all the acts of the rite (Hajj or 'Umrah) for which .he had assumed ihram

They say that it has been named `al…qiran' because it involves union between the Hajj and the `Umrah. But the Imamiyyah say that it is because of the additional (feature of the hady accompanying the pilgrim at the time of ihram.(١)

According to the four Sunni legal schools, it is permissible for the pilgrim, Meccan or non…Meccan, to choose from any of the three forms of the Hajj: al…tamattu; al…qiran, or al…'ifrad, without involving any karahah (reprehensibility). Only Abu Hanifah .considers Hajj al-tamattu` and Hajj al-qiran as makruh for the Meccan

The four Sunni legal schools also differ as to which of the three kinds of Hajj is superior to the others. The best according to the Shafi`i school is al…'ifrad, and al…tamattu` is superior to al…qiran. According to the Hanafi school, al…qiran has greater merit than the other two. The best according to the Maliki school is al…'ifrad, .`and according to the Hanbali and Imamiyyah schools is al…tamattu

According to the Imamiyyah school, Hajj al-tamattu` is obligatory upon one living at a distance of over forty…eight miles from Mecca, and he may not choose any other kind except in emergency. The Hajj al-qiran and Hajj al…'ifrad are performable by the people of Mecca and those living around it within a distance of forty…eight miles, and it is not permissible for them to perform except one of these two kinds. The Imamiyyah :base their argument on this verse of the Qur'an

فَمَنْ تَمَتَّعَ بِالْعُمْرَهِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ

١- Ibn 'Aqil is alone among Imamiyyah legists in agreeing with the Sunni legists in that the acts of both the Hajj and the 'Umrah may be performed with a single ihram in Hajj .al-qiran

لَمْ يَجِدْ فَصِيَامُ ثَلَاثَهِ أَيَّامٍ فِى الْحَجِّ وَسَبْعَهٍ إِذَا رَجَعْتُمْ تِلْكَ عَشَرَهٌ كَامِلَهٌ ذَلِكَ لِمَنْ لَمْ يَكَنْ أَهْلُهُ حَاضِرِى الْمَسْجِدِ الْحَرَامِ

if any one wishes to continue the 'umra on to the hajj, He must make an offering,... such as he can afford, but if he cannot afford it, He should fast three days during the hajj and seven days on his return, Making ten days in all. This is for those whose (household is not in (the precincts of) the Sacred Mosque.....(۲:۱۹۶

Moreover, according to the Imamiyyah school, it is not permissible for one obliged to perform the Hajj al-tamattu` to change over to something else, except for the problem of shortage of time available, or, in the case of women, due to impending menses. In those cases it is permissible to change either to al…qiran or al…'ifrad on condition that the `Umrah is performed after the Hajj. The limit of the shortage of .time is failure to be present at the wuquf in `Arafat until noon

For one whose duty is al…qiran or al…'ifrad, such as the natives of Mecca or those from its surrounding region, it is not permissible to change to al…tamattu`, except in exigency (such as the fear of impending menses). After explaining this position of the Imamiyyah school, the author of al…Jawahir says, "I have not come across any ".different opinion on this matter

And all the five legal schools agree that the hady is not compulsory for one performing Hajj al…'ifrad, though better if performed

.voluntarily

The ‘Ihram

Mawaqit al_'Ihram

The ihram is compulsory for all the various kinds of Hajj as well as' `Umrah, and is regarded as their basic element (rukn) by the Imamiyyah, and as obligatory by other schools. All the five schools agree that the miqat of the people of al_Madinah from where they assume ihram is Masjid al_Shajarah, also known as Dhu al_Hulayfah; (۱)for the pilgrims of al_Sham (which includes the Syrians, the Lebanese, the Palestinians and the Jordanians, noting further that the routes have changed from what they used to be in the past), Morocco and Egypt the miqat is al_Juhfah;(۲) for the pilgrims of Iraq, it is al_`Aqiq;(۳) for those from Yemen and others who take the same (route, it is Yalamlam. (۴

According to the Imamiyyah, Qarn al_Manazil (۵) is the miqat for the people of al_Ta'if and those who take their route towards Makkah. But according to the four Sunni schools, it is the miqat of the people of Najd. The miqat for those from Najd and Iraq according to the Imamiyyah is al_`Aqiq. All the legal schools agree that these mawaqit also apply to those who in their journey take similar routes, even though they may not .be natives of those regions

For instance, if a Syrian starts on Hajj from al_Madinah, it is permissible for him to assume ihram from Dhu al_Hulayfah; if he starts on Hajj from Yemen, his miqat is Yalamlam; if from Iraq, then al_`Aqiq, and so on. If one does not pass the

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Dhu al_Hulayfah, nowadays known as Bi'r `Ali or Abyar `Ali, is at a distance of - ۱ (.about ۴۸۶ kms. from Makkah to the north and ۱۲ kms. from al_Madinah. (Tr

(.Al_Juhfah, lies a distance of about ۱۵۶ kms. from Makkah to the north_west. (Tr -۲

There are three points in the valley of al_`Aqiq, ۹۴ kms. From Makkah in the - ۳ north_east, from where ihram is assumed: al_Maslakh, al_Ghamrah, and Dhat al_`Irq.

According to the Imamiyyah fuqaha', it is permissible to assume ihram from any of these points, though al…Maslakh is considered best, then al…Ghamrah, and then Dhat (.al-Irq. (Tr

Yalamlam is a mountain of the Tahamah range, lying at a distance of ۸۴ kms. from -۴ (.Makkah (Tr

Qarn al…Manazil, the miqat for those coming from al…Ta'if, lies at a distance of ۹۴ -۵ .kms. east of Makkah

mentioned mawaqit on his route, the miqat for him is the place parallel to any one of them.

If someone lives at a place nearer to Makkah than any of the prescribed mawaqit, then he assumes ihram from the place of his residence. For, someone who resides in Makkah itself, his miqat is Makkah. For one performing the al-`Umrat al-mufradah, the mawaqit, according to the Imamiyyah, are the same as for the Hajj.

Ihram Before Miqat

The four Sunni legal schools agree on the permissibility of assuming ihram before the point of miqat, but disagree as to which has greater merit. According to Malik and Ibn Hanbal, ihram before miqat is more meritorious (afdal). According to Abu Hanifah, the merit lies in assuming ihram while starting the Hajj journey from one's town: Two opinions are ascribed to al-Shafi'i in this regard.

However, according to the Imamiyyah school, ihram before miqat is not permissible except for one who intends to perform the `Umrah in the month of Rajab and is afraid of missing it if ihram is delayed until miqat is reached, and for one who makes a vow (nadhr) to assume ihram before the miqat. (al-Tadhkirah, Fiqh al-Sunnah)

Ihram after Miqat

There is consensus among all the legal schools that it is not permissible to cross the miqat without ihram, and one who does so must return to the miqat for assuming ihram. If he does not return, according to the four Sunni schools, his Hajj is correct though he should offer a hady in atonement. But if there be

any impediment, such as fear of insecurity on the way or shortage of time, there is no sin. This, regardless of whether there are other mawaqit before him on his path or .not

According to the Imamiyyah, if he has deliberately neglected to assume ihram at the miqat while intending to perform the Hajj or the `Umrah, if he does not turn back to the miqat, there being no other miqat before him from which he can assume ihram, .his ihram and Hajj are invalid, whether he had a valid pretext for not returning or not

But if his failure to assume ihram at miqat was on account of forgetfulness or ignorance, if it is possible to return, he must do so; but if it is not possible, then from the next miqat before him. Otherwise he ought to assume ihram as far as possible outside the haram of Makkah, or within it; though the former is preferable. ((al_Tadhkirah, al_Fiqh `ala al\_madhahib al\_'arba`ah

Ihram before the Hajj Months

According to the Imamiyyah and Shafi'i schools, the ihram before the months of the Hajj is invalid if assumed with the purpose of Hajj, though it is valid when assumed for :the purpose of the `Umrah. They cite in this regard the Qur'anic verse

الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ

:(The pilgrimage is (performed in) the well-known months...(۲:۱۹۷

But according to the Hanafi, Maliki and Hanbali schools, it is permissible with karahah. ((al_Tadhkirah, Fiqh al_Sunnah

The Mustahabbat of Ihram

point

There is no disagreement among the legal schools with respect to the ihram being an essential rukn of the `Umrah

and all the three forms of the Hajj, namely, tamattu; qiran and ifrad. Also, there is no difference of opinion that ihram is the first act of the pilgrim, irrespective of whether his purpose is `Umrah mufradah, or any of the three forms of Hajj. There are certain .wajibat and mustahabbat related to the ihram

The legal schools agree that it is mustahabb for anyone intending ihram to cleanse his body, clip his fingernails, shorten his moustaches, and to take a bath (even for women undergoing hayd or nifas, for the aim is cleanliness). It is also mustahabb for one intending Hajj to abstain from cutting the hair of his head from the beginning of the month of Dhu al-Qi'dah, to remove the hair from his body and armpits, and to enter ihram after the zuhr (noon) or any other obligatory prayers. It is also mustahabb to pray six, four or at least two raka`at. However, freedom from the state of ritual .impurity (hadath) is not a condition for the ihram to be valid

According to the Hanafi and Maliki schools, if water is not available, one is relieved of the duty to take the bath (ghusl), and tayammum as an alternative is not permissible. According to the Hanbali and Shafi'i schools, tayammum substitutes ghusl. The .Imamiyyah jurists differ on this matter, some consider it permissible, others not

According to the Imamiyyah school, it is mustahabb to leave the hair of the head ,uncut, but according to the Shafi'i, Hanafi and Hanbali schools

(it is mustahabb to shave the head. (al‑Fiqh `ala al‑madhahib al‑'arba`ah

According to the Hanafi school, it is sunnah for one who wants to assume ihram to scent his body and clothes with a perfume whose trace does not remain after ihram except the smell. According to the Shafi'i school, it is sunnah, except when one is fasting, to apply perfume to the body after the bath. Also, perfuming the clothes does not matter. According to the Hanbali school, one may perfume the body; and the (clothes with karahah. (al‑Fiqh `ala al‑madhahib al‑'arba `ah

According to the Hanafi, Maliki and Shafi'i schools, it is mustahabb for the muhrim to pray two raka'at before assuming ihram after the noon prayer or any other obligatory prayer. If he has no obligatory prayer to make at the time of ihram, he should offer (six, or four or at least two raka`at for the ihram. (al‑Jawahir

Al‑ 'Ishtirat

Al‑Muhaqqiq al‑Hilli, the Imamiyyah scholar, in his work Tadhkirat al‑fuqaha', says that for one intending ihram it is mustahabb to make a condition with God at the time :of assuming ihram, by saying

اللهم انی أرید ماأمرتنی به، فإن منعتنی مانعٌ عن تمامه وحبسنی عنه حابسٌ فجعلنی فی حل.

O God, indeed I wish to fulfill Thy command, but if any impediment keeps me from .completing it or a barrier obstructs me from it, exonerate me

Abu Hanifah, al‑Shafi'i, and Ahmad ibn Hanbal also consider it mustahabb. However, this ishtirat does not help in relieving one of the obligations of the Hajj if

.he were to encounter an impediment which keeps him from getting through it

The Wajibat of Ihram

point

The wajibat of ihram, with some difference between the legal schools on some points, .are three: niyyah (intention); talbiyah; and putting on of the clothes of ihram

Al_Niyyah

Obviously niyyah or intention is essential to every voluntary act; for every such act is motivated by conscious intent. Therefore, some scholars have pointed out that had we been assigned a duty to be performed without intention it would have been impossible to be carried out. However, when the question of intention is raised in relation to the pilgrim (of the Hajj or the `Umrah), what is meant is whether he becomes muhrim solely on account of the niyyah or if something else is required in .addition, acknowledging that ihram is void if assumed frivolously or absent_mindedly

According to the Hanafi school, ihram is not considered to commence solely with intention unless it is accompanied by the utterance of the talbiyah (Fath al_qadir). According to the Shafi'i, Imamiyyah and Hanbali schools, the ihram is assumed merely by niyyah (al_Jawahir, Fiqh al_Sunnah). The Imamiyyah add that it is obligatory for the niyyah to coincide with the commencement of ihram, and it is not sufficient for the act .of niyyah to occur in the course of assuming ihram

Also while making the niyyah it is essential to specify the purpose of ihram, whether it is Hajj or `Umrah, whether it is Hajj al_tamattu; Hajj al_qiran or Hajj al_'ifrad, whether he is performing the Hajj for

himself or as a na'ib of someone else, whether for the obligatory Hajj (Hijjat al-'Islam) or for something else. If one assumes ihram without specifying these particulars, postponing their determination to future, the ihram is invalid. (al-`Urwat al-wuthqa).

According to the Hanafi text al-Mughni, "It is mustahabb to specify the purpose of ihram. Malik is of the same opinion. Two opinions are ascribed to al-Shafi'i. According to one of them, it is adequate if one assumes ihram with a general, non-specific purpose of pilgrimage... without determining the exact purpose, whether Hajj or `Umrah. The ihram thus assumed is valid and makes one a muhrim .... Afterwards, he may select any of the kinds of pilgrimage." All the five schools agree that if one assumes ihram with the intention to follow another person's intention, his ihram is valid if the other person's purpose is specific. (al-Jawahir; al-Mughni)

The Talbiyah

That the talbiyah is legitimate in ihram is acknowledged by all the five schools, but they disagree as to its being wajib or mustahabb, and also about its timing. According to the Shafi`i and Hanbali schools, it is sunnah, preferably performed concurrently with ihram. However, if the intention to assume ihram is not accompanied by talbiyah, the ihram is correct.

According to the Imamiyyah, Hanafi, (۱)[۲۸] and Maliki schools, the talbiyah is obligatory, though they differ about its details. According to the Hanafi school, pronouncement of talbiyah or its substitute-such as tasbih, or bringing along of the sacrificial animal (al-hady)-is a provision for ihram to be valid.

۱- ۸ According to the Hanafi school, bringing along of hady substitutes the talbiyah, as mentioned by Ibn `Abidin and the author of Fath al-Qadir.

According to the Maliki school, the ihram neither becomes invalid if talbiyah is recited after a long gap of time, nor if it is not pronounced altogether. However, one who fails .to pronounce it must offer a blood sacrifice

According to the Imamiyyah, neither the ihram for Hajj al-tamattu; nor Hajj al-'ifrad, nor their conjugate `umrahs, nor for al-`Umrat al-mufradah, is valid without talbiyah. However, one who intends to perform Hajj al-qiran may choose between. talbiyah, ish'ar(١) or taqlid; ish'ar for this school being exclusively restricted to a camel, though .taqlid may apply to a camel or the other forms of hady

The Formula of Talbiyah

لبيک اللهم لبيک، لا شريک لک لبيک، إن الحمد والنعمه لک والملک لا شريک لک

All the legal schools agree that taharah is not a proviso for pronouncing talbiyah. .((al-Tadhkirah

As to its occasion, the muhrim starts reciting it from the moment of ihram, being mustahabb for him to continue it.....all the five schools agree.....until the ramy of Jamarat al-`aqabah. To utter it loudly is mustahabb for men (not for women), except in mosques where prayers are offered in congregation, particularly in the Mosque of `Arafat. According to the Imamiyyah school, it is mustahabb to discontinue reciting the talbiyah on sighting the houses of Makkah. A woman may recite the talbiyah just aloud enough to be heard by herself or someone near her. It is also mustahabb to .(proclaim blessings on the Prophet and his Family (s). (al-Tadhkirah; Fiqh al-Sunnah

The Muhrim's Dress

All the five schools agree that it is not permissible

١- Ish'ar" here means slitting the right side of the camel's hump. By "taqlid" is meant" the hanging of an old horseshoe in the neck of the hady, which is meant to identify the .sacrificial animal as such

for a muhrim man to wear stitched clothing, shirts or trousers, nor may he cover his face. Also, it is not permissible for him to wear shoes (khuffan) except when he cannot find a pair of sandals (na`lan), (۱) and that after removing the covering on the back of the heels from the base. A woman, however, should cover her head, keep her face exposed, except when she fears that men may ogle at her.

It is not permissible for her to wear gloves, but she may put on silk and wear shoes (khuffan). According to Abu Hanifah, it is permissible for a woman to wear gloves. ((al-Tadhkirah; Ibn Rushd's al-Bidayah wa al-nihayah).

The book al-Fiqh `ala al-madhahib al-'arba`ah, under the heading `That which is required of one intending ihram before he starts to assume it', states, "According to the Hanafi school, among other things he wears izar (loin-cloth) and rida' (cloak). The izar covers the lower part of the body from the navel to the knees. The rida' covers the back, the chest and the shoulders, and its wearing is mustahabb.

According to the Maliki school, it is mustahabb to wear izar, rida and na`lan; but there is no restriction on wearing something else that is not stitched and does not encircle any of the parts of the body.

According to the Hanbali school, it is sunnah to put on a new, white and clean rida' and izar together with a pair of na`lan before assuming ihram. According to the Shafi`i school, the

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۱ - The nal has a sole, but is devoid of the covering on the sides and the back of the foot at the heels. The khuff is the common shoe, which covers the foot on the sides and the heels.

.rida' and izar should be white, new or washed ones

According to the Imamiyyah school, the rida' and the izar are obligatory, preferably (istihbaban) of white cotton. The muhrim may put on more than these two pieces of clothing on condition that they are not stitched. Also it is permissible to change the clothes in which one commenced ihram, though it is better to perform the tawaf in the same rida' and izar as worn at the beginning.

All the requirements of the dress for salat apply to the dress of ihram, such as taharah, its being non-silken for men, not made of the skin of an animal eating whose flesh is not permissible. According to some Imamiyyah legists, clothing made of skin is not permissible (in salat and ihram).

In any case, the disagreement between the legal schools about the muhrim's dress is very limited. This is well indicated by the fact that whatever is regarded as permissible by the Imamiyyah is also considered permissible by the remaining schools.

Restrictions of Ihram

point

There are certain restrictions for the muhrim, most of which are discussed below.

Marriage

According to the Imamiyyah, Shafi'i, Maliki and Hanbali schools, it is not permissible for the muhrim to contract marriage for himself or on behalf of another. Also he may not act as another's agent for concluding a marriage contract, and if he does, the contract is invalid.

Furthermore, according to the Imamiyyah school, he may not act as a witness to such a contract.

According to Abu Hanifah, marriage contract is permissible and

.the contract concluded is valid

According to the Hanafi, Maliki, Shafi`i and Imamiyyah schools, it is permissible for the muhrim to revoke divorce of his former wife during the period of her `iddah. According to the Hanbali school, it is not permissible. From the viewpoint of the Imamiyyah, if one enters a marriage contract with the knowledge of its prohibition, the woman becomes haram for him for life merely by the act of concluding the contract, even if the marriage is not consummated. But if done in ignorance of the interdiction, she is not prohibited to him, even if consummation has been affected. .((al_Jawahir Fiqh al_Sunnah; al_Fiqh `ala al_madhahib al_'arba`ah

Intercourse

All the five legal schools agree that it is not permissible for the muhrim to have sexual intercourse with his wife, or to derive any kind of sexual pleasure from her. If he performs intercourse before tahlil(۱) (i.e. relief from the state of ihram) his Hajj becomes void, although he must perform all its acts to the conclusion. Thereafter, he must repeat the Hajj the next year, performing it `separately' from his spouse. (۲) The seclusion is obligatory according to the Imamiyyah, Maliki and Hanbali schools, and voluntary from the viewpoint of the Shafi'i and Hanafi schools. (al_Hada'iq; Fiqh .(al_Sunnah

Moreover, according to the Imamiyyah, Shafi'i, and Maliki schools, besides the fact that his Hajj becomes invalid, he must sacrifice a camel in atonement, and according .to the Hanafi school, a sheep

All the five legal schools agree that if he commits intercourse after

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After performing ramy al jamarat and halq, everything except intercourse and - ۱ perfume becomes permissible to the pilgrim_such as wearing of stitched clothes and other things. This is called al_hill al_'awwal (or "the first relief" from the restrictions of ihram). After the last tawaf all things including intercourse become permissible to him.

.This "second relief"......to be explained later......is called al...hill al...thani

According to al...Tadhkirah, It is necessary during the next Hajj that the `separation' -٢ should take place from the point where the misdemeanour was committed during the first Hajj. The meaning of `separation' (tafriq) is that the two should not be alone together without there being present a third muhrim, whose presence acts as a .deterrent

the first tahlil (i.e. after the halq or taqsir in Mina, after which everything except intercourse……and also perfume according to the Imamiyyah school……become permissible for the pilgrim), his Hajj is not void, nor is he called upon to repeat it. Nevertheless, he must offer a camel, according to the Imamiyyah and Hanafi schools and according to one of the two opinions ascribed to al…Shafi'i. But according to the .(Maliki school, he is obliged to offer a sheep only. (al…Hada'iq; Fiqh al…Sunnah

If the wife yields willingly to intercourse, her Hajj is also void, and she must sacrifice a camel in expiation and repeat the Hajj the year after. But if she was forced, then nothing is required of her, but the husband is obliged to offer two camels: one on his own behalf, and the second on hers. If the wife was not in the state of ihram, but the husband was, nothing is required of her, nor is she did not oblige to offer anything in .(atonement, nor is anything required of the husband on her account. (al…Tadhkirah

If the husband kisses his wife, his Hajj is not void if it does not result in ejaculation. On this all schools are in agreement. But according to the four Sunni schools, he is obliged to make a sacrificial offering in atonement even if it be a sheep. The Imamiyyah author of al…Tadhkirah says, the sacrifice of a camel is obligatory only if the kiss is taken with sexual desire, otherwise he should

sacrifice only a sheep. If he ejaculates, the Hajj is void according to the Maliki school, but remains valid according to the other schools, although he should make an offering in atonement, which is a camel according to the Hanbali school and a group of Imamiyyah legists, and a sheep according to the Shafi'i' and Hanafi schools. .((al…Hada'iq; al…Mughni

Use of Perfume

All the legal schools agree that the muhrim, man or woman, may not make use of any perfume, either for smelling, or for applying on himself, or for scenting edibles. Indeed it is not permissible to wash the dead body of a muhrim, or to perform hunut upon it by applying camphor or any other kind of perfumery. If the muhrim uses perfume forgetfully or on account of ignorance, he needs not make any offering in atonement according to the Imamiyyah and Shafi'i schools. But according to the Hanafi and Maliki schools, he must make a sacrificial offering (fidyah). In this relation two different .opinions are ascribed to Ahmad ibn Hanbal

However, when one is forced to use perfume on account of disease, it is permissible and no fidyah is required. According to the Imamiyyah school, if one uses perfume intentionally, he must offer a sheep, irrespective of the use, whether applied to the body or eaten. However, there is nothing wrong in the Khaluq of Ka'bah even if it .(contains saffron, and the same applies to fruits and aromatic plants. (al…Jawahir

Use of Kohl

Al…Tadhkirah states: "There is consensus among the Imamiyyah legists on the point

that darkening the eyelids with kohl or applying a kohl containing perfume is not permissible for the muhrim, man or woman. Apart from that (i.e. ihram) it is permissible." According to the author of al‐Mughni, "Kohl containing antimony is makruh, and does not require any fidyah. I haven't come across any different opinion on this topic. However, there is no karahah in use of kohl without antimony, as long as ".it does not contain any perfume

Shortening of Nails and Hair; Cutting of Trees

All the five legal schools agree about impermissibility of shortening the nails and shaving or shortening of the hair of the head or the body in the state of ihram, fidyah being required of the offender. (١) As to cutting of trees and plants within the haram, all the legal schools agree that it is impermissible to cut or uproot anything grown .naturally without human mediation

Al‐Shafi'i' states that there is no difference between the two with regard to the prohibition, and fidyah is required for both: cutting of a big tree requires fidyah of a cow, and of other plants of a sheep. According to Malik, cutting of a tree is a sin, though nothing is required of the offender, regardless of whether it has grown with or .without human mediation

According to the Imamiyyah, Hanafi, and Hanbali schools, cutting of something planted by human hands is permissible and does not require a fidyah; but anything grown by nature requires fidyah, which is a cow according to the Imamiyyah for cutting a big tree and

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According to the Imamiyyah, the kaffarah for cutting a single nail is giving one - ١ mudd (٨٠٠ grams) of food in charity. If all the nails of fingers and toes are cut in one sitting, the kaffarah is one sheep, but if done in several sittings, it is sacrifice of two .sheep

a sheep for cutting smaller plants. According to the Hanafi school, the owner of the tree is entitled to a payment equivalent to the cost of the hady. (Fiqh al-Sunnah, (al-Lum`ah

All the five schools agree that there is no restriction for cutting a dry tree or for pulling .out withered grass

Looking into a Mirror

It is not permissible for a muhrim to look into a mirror, and all the five schools agree that there is no fidyah for doing so. However, there is no restriction on looking into .water

Use of Henna

According to the Hanafi school, it is permissible for the muhrim, man or woman, to dye with henna any part of his body, except the head. According to the Shafi`i school, it is permissible, with. the exception of hands and feet. According to the Hanafi school, dyeing is not permissible for the muhrim, man or woman. (Fiqh al-Sunnah)The predominant view among the Imamiyyah legists is that dyeing is makruh not haram. ((al-Lum`ah

Use of Shade; Covering the Head

All the five schools agree that it is not permissible for the muhrim man to cover his head voluntarily. According to the Maliki and Imamiyyah schools, it is not permissible for him to immerse himself under water until the head is completely submerged, although it is permissible for him, all the five schools except the Shafi'i agree, to wash his head or pour water over it. The Malikis say that with the exception of the hands it is not permissible to remove dirt by washing. If he covers the head forgetfully, nothing is required of

him according to the Imamiyyah and Shafi'i schools, but a fidyah is required according .to the Hanaf i school

All the schools, with the exception of the Shafi'i, agree that it is impermissible for the muhrim to shade himself while moving. Neither it is permissible for him to ride an automobile, an aeroplane or the like, which are covered by a roof. But it is permissible (while walking to pass under a shadow.(1)

Stitched Clothing and Ring

All the five schools agree that it is forbidden for the muhrim man to wear stitched clothes and clothes which encircle body members, e.g. turban, hat and the like. These are permissible for women, with the exception of gloves and clothes which have come into contact with perfume. According to the Imamiyyah school, if the muhrim wears stitched clothes forgetfully, or in ignorance of the restriction, nothing is required of him. But if one wears them intentionally to protect himself from heat or cold, he should offer a sheep. Also according to them it is not permissible to wear a ring for adornment, but it is permissible for other purposes. Also, it is not permissible for .woman to wear jewellery for the sake of adornment

'Fusuq' and Jidal`

:God, the most Exalted, says in the Quran

...فَلَا رَفَثَ وَلَا فُسُوقَ وَلَا جِدَالَ فِي الْحَجِّ ...

.(There should be no obscenity, neither impiety, nor disputing in Hajj ....' (۲:۱۹۷....

In the above verse, the meaning of `rafath' is taken to be sexual intercourse, to which ,reference has been made earlier. `Fusuq' is taken to mean lying

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۱ - The author of al-Tadhkirah ascribes impermissibility of shadowing oneself while moving to Abu Hanifah, and the author of Rahmat al-'ummah ascribes to him .permissibility

cursing, or commission of sins. In any case, all of them are forbidden for the pilgrims of Hajj and the non-pilgrims as well. The stress here is meant to emphasize abstention from them in the state of ihram. The meaning of jidal' is quarrelling. According to an Imamiyyah tradition from al-'Imam al-Sadiq (`a), he is reported to have said, "It (i.e. jidal' in the above-mentioned verse) means using such expressions "as `Yes, by God!' or `No, by God!' in conversation. This is the lowest degree of jidal

According to the Imamiyyah school, if the muhrim tells a lie for once, he must offer a sheep; if twice, a cow; if thrice, a camel. And if he swears once taking a veritable oath, there is nothing upon him; but if he repeats it three times, he is obliged to sacrifice a .sheep

(Cupping (Hijamah

All the five schools agree on permissibility of cupping in case of necessity, and the four Sunni schools permit it even when not necessary as long as it does not require removal of hair. The Imamiyyah legists disagree on this issue; some of them permit it (and others not. (al-Tadhkirah; al-Fiqh `ala al-madhahib al-'arba`ah

(Hunting (al_Sayd

All the five schools are in agreement about the prohibition on hunting of land animals, either through killing or through dhabh, and also on guiding the hunter or pointing opt the game to him in the state of ihram. Also prohibited is meddling with their eggs and their young ones. However, hunting of the animals of water is

:permitted and requires no fidyah. This, in accordance with the Qur'anic verse

أُحِلَّ لَكُمْ صَيْدُ الْبَحْرِ وَطَعَامُهُ مَتَاعًا لَكُمْ وَلِلسَّيَّارَةِ وَحُرِّمَ عَلَيْكُمْ صَيْدُ الْبَرِّ مَا دُمْتُمْ حُرُمًا وَاتَّقُوا اللَّهَ الَّذِى إِلَيْهِ تُحْشَرُونَ

Permitted to you is the game of the sea and the food of it, as a provision for you and for the journeyers; but forbidden to you is the game of the land, so long as you remain (in the state of ihram: and fear God, unto whom you shall be mustered. (۵:۹۶

The prohibition on hunting within the precincts of the haram apply to the muhrim and the non…muhrim (muhill) equally. However, outside the haram, the prohibition applies only to the muhrim. If the muhrim slaughters a game, it is considered maytah (a dead animal not slaughtered in accordance with ritual requirements), and its flesh is unlawful for all human beings. The five legal schools agree that the muhrim may kill a predatory bird called hada'ah, crows, mice and scorpions. Others include wild dogs .and anything harmful

According to the Imamiyyah and Shafi'i schools, if the game hunted on land resembles some domestic beast in shape and form (like the Oryx, which resembles the cow), he :has the choice between

giving the meat of one of similar beasts of his livestock in charity after slaughtering (۱) ;it

estimating its price and buying food of the amount to be given in expiation and (۲) charity to the needy, distributing it by giving two mudds (the muddis a dry measure equal to

;grams) to every individual ۸۰۰

.fasting, a day for every two mudds (۳)

The Malikis hold the same viewpoint, except that, they add, the price of the hunted animal itself should be estimated, not that of its domestic equivalent. The Hanafis say that one who hunts in the state of ihram should arrange for the estimated price of the hunted animal, whether there is a domestic animal similar to it or not. When the price :has been estimated, he is free to choose between

;purchasing livestock of the money and giving its meat away in charity (۱)

;giving it from his own livestock (۲)

;purchasing food of the amount to be given away in charity (۳)

fasting, a day for every mudd of food to be given away. (al_Tadhkirah; Fiqh (۴) al_Sunnah)In this connection all the legal schools base their position on this Qur'anic :verse

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ هَدْيًا بَالِغَ الْكَعْبَةِ أَوْ كَفَّارَةٌ طَعَامُ مَسَاكِينَ أَوْ عَدْلُ ذَلِكَ صِيَامًا لِيَذُوقَ وَبَالَ أَمْرِهِ عَفَا اللَّهُ عَمَّا سَلَفَ وَمَنْ عَادَ فَيَنْتَقِمُ اللَّهُ مِنْهُ وَاللَّهُ عَزِيزٌ ذُو انْتِقَامٍ

O believers, slay not the game while you are in the state of ihram. Whosoever of you slays it wilfully, there shall be reparation.....the like of what he has slain, in livestock, as shall be judged by two men of equity among you, as offering on reaching the Ka`bah; or expiation......food for poor persons or the equivalent

p: ۴۳

of that in fasting, so that he may taste the mischief of his action. God has pardoned what is past; but whoever offends again, God will take vengeance on him; God is (All_mighty, Vengeful. (۵:۹۵

in the above verse is that two equitable يَحْكُمُ بِهِ ذَوَا عَدْلٍ :The meaning of the phrase (`adil) witnesses should judge whether a certain domestic animal is similar to the is that he should slaughter هدياً بالغ الكعبه :hunted wild beast. The meaning of the phrase .the equivalent livestock and give its meat in charity on arrival in Makkah

According to the Imamiyyah work al_Shara'i`, "Every muhrim who wears or eats anything forbidden for him should slaughter a sheep, regardless of whether his action ".was intentional, forgetful, or on account of ignorance

The Imamiyyah and Shafi'i schools agree that no expiation (kafarah) is required of someone who commits a haram act forgetfully or in ignorance, except in the case of .hunting, in which case even killing by mistake requires kaffarah

The Limits of the Harams of Makkah and of Al_Madinah

The prohibition of hunting and cutting of trees applies both to the haram of Makkah and that of al_Madinah. According to Fiqh al_Sunnah, the limits of the haram of Makkah are indicated by signs in five directions, which are one_meter_high stones fixed on both sides of the roads. The limits of the haram of Makkah are as follows: (۱) the northern limit is marked by al_Tan'im, which is a place at a distance of ۶ kms. from Makkah; (۲) the southern limit is marked by Idah, ۱۲ kms. from

Makkah; (۳) the eastern limit is al_Ja'ranah, ۱۶ kms. from Makkah; (۴) the western limit .is al_Shumaysi, ۱۵ kms. from Makkah

The limits of the haram of the Prophet's shrine extend from `Ir to Thawr, a distance .of ۱۲ kms. `Ir is a hill near the miqat, and Thawr is a hill at Uhud

Al_`Allamah al_Hilli, an Imamiyyah legist, states in his work al_Tadhkirah that "the haram of Makkah extends over an area of one band by one band (۱ band =۱۲miles), (and the haram of al_Madinah extends from `Ayir to `Ir. (۱

Tawaf

point

Tawaf is an essential part (rukn) of `Umrah, and the tawaf al_ziyarah (also called `tawaf al_'ifadah') is a rukn of the Hajj al_tamattu; Hajj al_'ifrad and Hajj al_qiran. As said earlier, the assumption of ihram is the first act of the pilgrim regardless of .whether he comes for `Umrah mufradah or for any of the three types of Hajj

Now, after the assuming of ihram, what is the next step for the pilgrim? Is it tawaf, or wuquf, or something else? The answer is: it depends on the purpose (niyyah) with which the pilgrim assumes ihram. If it is `Umrah, then the next step is tawaf, regardless of whether it is `Umrah mufradah or `Umrat al_tamattu`' Thus tawaf is the second step for the mu'tamir (pilgrim intending `Umrah), by agreement of all the .legal schools

However, if the purpose of ihram is Hajj only_____such as in the case of pilgrim on Hajj al_'ifrad, or one intending to perform the Hajj

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Al_Mughni states, "Those knowledgeable about al_Madinah do not know of any - ۱ .Thawr or `Ir," but it is possible that names have changed with time

al_tamattu` after getting through the acts of `Umrah.....the second step is (as shall be .explained later) wuquf in `Arafat

In other words, one who enters Makkah with the sole purpose of `Umrah or Hajj al_tamattu` performs tawaf before everything else, then sa'y and then taqsir. After this, if on Hajj al_tamattu`, he assumes ihram for a second time; but he is not required to perform another tawaf after this ihram. The tawaf (pertaining to the Hajj acts), as we shall explain, comes after getting through the wuquf at `Arafat and .passage through Mina

Kinds of `Umrah in View of the Ahl al_Sunnah

point

:The imams of the four Sunni schools distinguish between three kinds of tawaf

Tawaf al_Qudum .١

It is the tawaf performed by the `outsiders', (i.e. those coming from outside Makkah and from beyond its outskirts within a radius of ٨٨ kms.) on entry into Makkah. It is similar to the two raka'at of salat performed as tahiyyat al_masjid (lit. `greeting of the mosque'), and so is also called `tawaf al_tahiyyah" The four Sunni schools agree on its being mustahabb, and no penalty is required for default according to all except the .Malikis who require a blood sacrifice

Tawaf al_Ziyarah .٢

This tawaf (also called `tawaf al_'ifadah')is performed by Hajj pilgrims after getting through the acts of Mina, the ramy of jamarat al_`aqabah, the sacrifice (dhibh), and the halq or the taqsir. The pilgrim performs this tawaf on returning to Makkah. It is called `tawaf al_ziyarah' because it is performed on the visit (ziyarah) to the Ka'bah after leaving Mina. It is called `tawaf al_'ifadah' because the

pilgrims pour forth (`ifadah' means `pouring forth') into Makkah from Mina. It is also .called `tawaf al_hajj' because by consensus of all the schools it is rukn of the Hajj

After performing this tawaf all things become permissible for the (Sunni) Hajj pilgrim, even sexual intimacy with women. The Imamiyyah, who disagree, say that sex is not permitted before performing the sa'y between Safa and Marwah followed by a .second tawaf, which they call `tawaf al_nisa'.' This shall be further clarified presently

`Tawaf al_Wada .٣

It is the last tawaf performed by the Hujjaj before departing from Makkah. The Hanafi and Hanbali schools consider it obligatory, though all that is required of the defaulter is a sacrifice. The Malikis consider it mustahabb and do not require any penalty for the default. Al_Shafi'i has two opinions on this matter. (al_Mughni, al_Fiqh (`ala al_madhahib al_'arba`ah, Fiqh al_Sunnah

Kinds of Tawaf from the Imamiyyah Viewpoint

point

The Shi`ah agree with the Sunni schools about the legitimacy of the above three kinds of tawaf, and regard the second tawaf i.e. tawaf al_ziyarah as a rukn of the Hajj whose omission makes the Hajj invalid. (١) However, the first kind, i.e. tawaf al_qudum is considered mustahabb, and may be omitted. Regarding the third, i.e. tawaf al_wada; they agree with the Ma١iki school in its being mustahabb, there being .nothing on the defaulter

However, the Shi`ah add another kind of tawaf to the above three, the tawaf al_nisa', which they consider obligatory, its omission being impermissible in `Umrah mufradah as well as in all the three kinds of Hajj

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١- According to the author of al_Hada'iq, Hajj is invalid if tawaf is omitted intentionally, .but not if omitted by mistake; although it is obligatory to perform it after omission

i.e. tamattu; qiran, and ifrad). They do not permit its omission except in case of) `Umrat al_tamattu; considering the tawaf al_nisa' performed during the course of .Hajj al_tamattu` as sufficient

The schools of the Ahl al_Sunnah state that there is no obligatory tawaf after the tawaf al_ziyarah, after which sexual intimacy is permissible. The Shi'ah say that it is obligatory upon the pilgrim, after performing tawaf al_ziyarah and the sa'y, to perform another tawaf, the tawaf al_nisa; which derives its name precisely because .of the sanction of permissibility of relations with women (nisa') following it

They say that if the pilgrim defaults in regard to this tawaf, sexual relations are forbidden for man and woman (for men even the conclusion of marriage contract), unless he/she performs it in person or deputes another to perform it on his/her behalf; and if he/she dies without performing it or without deputing someone to do it for him/her, it is incumbent upon the heir (wali) to have it performed on the behalf of the .dead person

According to them, even in case of a mumayyiz child who fails to perform the tawaf al_nisa' while performing the Hajj, even if he omits it by mistake or on account of ignorance, women are forbidden to him after adulthood nor he may conclude a .marriage contract (`aqd) unless he performs it himself or deputes another for the job

To summarize, the Shi`ah consider three tawaf's to be obligatory for the pilgrim on the Hajj al_tamattu` : (۱) the tawaf of

the conjugate `Umrah, of which it is rukn;(٢) the tawaf al_ziyarah (or tawaf al_hajj), which is a rukn of the Hajj; and (٣) the tawaf al_nisa', which is also an obligatory part of it, though not a rukn similar to the Surat al_Fatihah in relation to the salat. The Ahl al_Sunnah agree with the Shi`ah in all except tawaf al_nisa; which they do not recognize. However, of a pilgrim on the Hajj al_'ifrad or Hajj al_qiran, only two tawaf's (are required by the Shi`ah. (١

Entry into Makkah

All the schools agree that it is mustahabb for one entering Makkah to take a bath, pass through its heights during the approach towards the city, enter through Bab Bani Shaybah, raise his hands on sighting al_Bayt al_Haram, pronounce takbir and tahlil, and to recite whatever he can of certain prayers prescribed by tradition. The Malikis, .'however, disagree about the istihbab of raising the hands for the du'a

Thereafter, he approaches the Black Stone; if possible kisses it or caresses it with his .hand or else just makes a gesture with his hand, and prays

According to the Imamiyyah, it is mustahabb while entering the haram of Makkah to be barefooted, to chew the leaves of a plant called `adhkhir' used for refreshing the .mouth, or to clean the mouth to purge its odour

The Conditions (Shurut) of Tawaf

According to the Shafi'i, Maliki, and Hanbali schools ritual purity (taharah, i.e. freedom from hadath and khabath) is required; thus the tawaf of one who is Junub or a woman undergoing hayd or nifas, is

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According to Ibn Rushd, in his Bidayah, the four Sunni schools agree that the pilgrim -١ of Hajj al_ramattu 'and it's related `Umrah is required to perform tawaf twice; the one on Hajj al_afrad is required to perform tawaf once. They disagree regarding Hajj al_qiran, in which case according to al_Shafi`i, Malik, and Ahmad ibn Hanbal, one .tawaf is required, but two according to Abd Hanifah

.not valid. Also, it is necessary to cover one's private parts completely as in salat

The author of the Fiqh al_Sunnah (p. ١٥۴, ١٩٥٥) says: "In the opinion of the Hanafis, freedom from hadath is not an essential requirement. However, it is an obligation whose omission may be compensated through a blood sacrifice. So, if one performs tawaf in the state of minor impurity (hadath asghar) his/her tawaf is valid, though one is required to sacrifice a sheep. If tawaf is performed in the state of janabah or hayd, (١) the tawaf is valid, though the sacrifice of a camel is required during the pilgrim's ".stay in Makkah

According to al_Fiqh `ala al_madhdhib al_'arba `ah (vol.I, p. ٥٣٥, ١٩٣٩): "The taharah of the clothes, the body, and the location of prayer (in salat) is (only) a highly recommended sunnah (sunnah mu'akkadah) from the Hanafi viewpoint; (this is true) even of tawaf, there being no penalty even if all the clothes are completely ritually ".(unclean (najis

According to the Imamiyyah, taharah from hadath and khabath is a proviso for validity of an obligatory tawaf. In the same way, covering the private parts (satr al_`awrah) with a ritually clean cloth legitimately owned (ghayr maghsub) is also a requirement. Moreover, it should not be made of silk or the skin of an animal whose flesh may not be eaten, nor made of golden fabric ......requirements which are the .same as for salat

It may be said that the Imamiyyah are even more stringent with regard to

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١ - According to al_Jawahir, al_Masalik al_`Urwat al_wuthqa and other works of Imamiyyah fiqh, it is not permissible for one in the state of janabah or hayd to enter or pass through al_Masjid al_Haram or Masjid al_Rasul (al_Madinah), to say nothing of tarrying (makth) therein. However, it is permissible for one in the state of janabah or .hayd to pass, without stopping or halting, through other mosques

tawaf than salat. They consider a blood spot of the size of a dirham as pardonable for one performing salat, but not for one performing tawaf. Further, they consider wearing of silk and gold as impermissible even for women during tawaf (which is permissible for women in salat). According to the Imamiyyah, circumcision is a requirement for tawaf without which it is invalid, both for an adult man and a child .((al...Jawahir, al...Hada'iq

The manner of Performing Tawaf

According to the Imamiyyah and Hanbali schools, the purpose or niyyah must be specified in every tawaf; but according to the Maliki, Shafi`i and Hanbali schools, a general niyyah for the Hajj is

sufficient and no separate niyyah for tawaf is required. (al...Jawahir, Fiqh al...Sunnah) As pointed out earlier, niyyah as a motive behind all voluntary actions is an inevitable .and necessary matter; as such, debate and controversy regarding it is futile

Ibn Rushd, in his Bidayat al...mujahid, writes: "The Sunni legists are in consensus on the opinion that every tawaf whether obligatory or not, begins from the Black Stone (and according to the Fiqh al...Sunnah ends thereat). The pilgrim, if he can, kisses it, otherwise touches it with his hand. Then, with the Ka'bah on his left, starts moving towards the right to make the seven circumambulations, walking with a moderately fast pace (ramal) during the first three rounds and with an ordinary pace during the last four rounds. (The ramal (۱) applies to the tawaf al...qudum performed on entry into Makkah by the `Umrah and Hajj pilgrim, not

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۱- Ramal' means walking fast, without running or making a rush. According to the` Imamiyyah work al...Lum`ah, ramal is mustahabb in the first three rounds of tawaf.....a .position which is exactly the same as that of the four Sunni schools

one on Hajj al…tamattu; also no ramal is required of women pilgrims). Then he kisses al…Rukn al…Yamani" (the south…western corner or rukn of the Ka'bah which falls before the one with the Black Stone mounted on it during the anti…clockwise rounds .(.made during tawaf……Tr

According to the Imamiyyah, there are certain things obligatory (wajib) in tawaf they :are as follows

.The niyyah, to which reference has already been made .١

The tawaf should be made on foot, and in case of inability on a mount. Many .٢ Imamiyyah fuqaha' do not recognize this requirement and a group of them explicitly permit tawaf on a mount. They cite the precedent of the Prophet (s) who performed .tawaf on camelback, according to traditions in al…Kafi and Man la yahduruhu al faqih

The condition that the tawaf should begin and end at the Black Stone is stated in this .٣ manner in many books of fiqh: "The tawaf should be begun at the Black Stone, so that the first part of one's body is in front of the first part of the Black Stone. Then the pilgrim begins moving with the Black Stone on his left, ending the last circumambulation exactly in line with the point where he commenced his first, thus ensuring that the seven rounds are completed without advancing or falling behind a .single step or more

The danger of advancing or falling behind necessitates that the first circumambulation should commence at the beginning of the Black Stone; because if begun in front of its

middle, one cannot be sure of having advanced or fallen behind some steps; and if one began from its end, then the beginning may not be said to have commenced from the Black Stone ...." and so on and so forth.

The author of the Jawahir al‑kalam makes elaborate critical remarks about this kind of meticulousness, which show his balanced and moderate taste and temperament. This is the substance of what he has to say: "The difficulty and the exasperating haraj (impediment) inherent in realizing such a requirement is not concealed .... To give it consideration is to fall into silly scruples. The debate is similar to the depraved and unseemly musings of madmen. (١) And it has been narrated of the Prophet (s) that he performed tawaf on camelback, and attaining this kind of precision is infeasible when on a mount."

That which can be understood from the remarks of the author of al‑Jawahir is that he agrees with the author of al‑Shara'i`, who confines himself to this statement, without adding another word: "It is obligatory to begin and end the tawaf at the Stone." It means—as is also apparent from his above‑mentioned remarks—that in the opinion of the author of al‑Jawahir it is sufficient to fulfil this condition in the commonly understood sense. Al‑Sayyid al‑Hakim, in al‑Munsik, holds a similar position when he says, "The pilgrim performing tawaf should begin a little before the Stone with the intent of performing what is really obligatory. When he performs in this fashion

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١ - The author of al‑Jawahir makes this remark when comparing those who stipulate such kind of conditions for tawaf to others with a similar attitude with regard to the niyyah of salat.

".he knows that he began at the Stone and finished thereat

The Ka'bah must be on the left during tawaf. According to al_Sayyid al_Khu'i, it is .۴ sufficient to realize this requirement in the commonly understood sense (i.e. without giving scrupulous attention to precision); slight shifts of direction do not matter as long as the movement meets the requirement in the ordinary sense. According to him .the only crucial factor is satisfaction of the requirement in its ordinary sense

The Hajar Isma'il must be included in tawaf. That is the circumambulation should be .۵ made around it and without entering it, (۱) and it should be kept to the left while making the tawaf. Thus if one passes between it and the Ka'bah during tawaf making .it fall to his right, the tawaf becomes invalid

وَلْيَطَّوَّفُوا بِالْبَيْتِ الْعَتِيقِ The body should be completely out of the Ka'bah (because God says .۶ which means that tawaf should be made around and _outside the Ka'bah, not inside it). Also if one were to walk on its walls or on the protruding part of its walls' .foundations, the tawaf would be invalid

The tawaf should be performed between the Ka'bah and the rock called Maqam .۷ Ibrahim, which is a stone on which Abraham (`a) stood during the building of the .Ka'bah

The tawaf should consist of seven rounds, no more and no less. Obviously, . ۸ recognition of these points requires an informed guide to indicate them to the .pilgrims

After finishing tawaf it is obligatory to offer

Hajar Isma`il ibn Ibrahim (`a) is the place where his house was built, and there he -۱ .buried his mother

two rak'ah's of salat behind the Maqam Ibrahim regardless of the crowd; but if it is not possible, one may offer the prayer in front of it, and if that, too, is not possible, anywhere in al-Masjid al-Haram. It is not permissible to begin a second tawaf without performing the two-rak`ah prayer. If one forgets performing them, it is obligatory on him to return and perform them. But if returning were not feasible, he can offer them wherever he can. This is true of the obligatory tawaf. But if the tawaf were a mustahabb one, he can offer the two rak`ah's wherever he can. (al-Tadhkirah, (al-Jawahir, al-Hada'iq

This shows that the jurists of all the legal schools are in agreement over certain points: the tawaf starts and ends at the Black Stone; the Ka'bah should be on the left during tawaf; the tawaf should be made outside the Ka'bah; seven rounds should be made; kissing the Black Stone and the Rukn is mustahabb. However, they disagree .with respect to the permissibility of break between successive rounds of the tawaf

According to the Maliki, Imamiyyah, and Hanbali schools, continuity without break (muwalat) is obligatory. According to the Shafi`i and Hanafi schools, it is sunnah (i.e. mustahabb) to observe muwalat, so if there is a substantial break between the rounds without any excuse, the tawaf is not invalidated. (Fiqh al-Sunnah). Similarly according to Abu Hanifah, if one leaves off after the fourth round, he must complete ;his tawaf if he is in Makkah

(but if he leaves Makkah, he must compensate it with a blood sacrifice. (al-Tadhkirah

The schools disagree with respect to the necessity of the tawaf being undertaken on foot. The Hanafi, Hanbali, and Maliki schools consider it obligatory. According to the Shafi'i school and a group of Imamiyyah scholars it is not obligatory and one may perform tawaf on a mount. Also, they disagree with respect to the two-rak'ah prayer (rak'atan) after tawaf. According to the Maliki, Hanafi, and Imamiyyah schools, the rak`atan--which is exactly like the daybreak prayer--are obligatory. The Shafi'i and .Hanbali schools regard it as mustahabb

The Mustahabbat of Tawaf

The book Fiqh al-Sunnah, discussing the topic under the heading "Sunan al-tawaf; states, "Of things which are sunnah in tawaf are: kissing the Black Stone while starting the tawaf, accompanied with tahlil and takbir, to raise the two hands as in salat, to greet the Stone by drawing one's hands upon it (istilam), to kiss it soundlessly, to lay one's cheek on it if possible, otherwise to touch it only." Other mustahabbat are: idtiba .(۱)for men, ramal, and istilam of al-Rukn al-Yamani

According to al-Lum`at al-Dimashqiyyah, an Imamiyyah work, of things mustahabb in tawaf are: to halt in front of the Black Stone, to make the prayer later offered with the hands raised, to recite the Surat al-Qadr, remember Allah--subhanahu wa ta'ala, to walk peacefully, to draw one's hand on the Black Stone, to kiss it if possible otherwise to make a gesture, to draw one's hand on every corner of the Ka'bah every

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۱ - By `idtiba is meant the style of wearing the rida' whose hanging sides are drawn under the right armpit and then thrown over the left shoulder. In the book al-Fiqh `ala al-madhahib al-'arba`ah, the istihbab of idtibta'is ascribed to the Hanafi, Shafi`i, and .the Hanbali, not to the Maliki, schools

time one basses by or to kiss it, to draw one's hand on al_Mustajar_ _which is in front of the door and before al_Rukn al_Yamani_ _during the seventh round, and to keep oneself as near as possible to the Ka'bah. To speak during tawaf apart from dhikr and .recitation of the Qur'an, is makruh

The Ahkam of Tawaf

According to the Imamiyyah, if a woman undergoes hayd during tawaf she discontinues tawaf and performs sa'y, if it happens after the fourth round. Then she completes the tawaf after attaining taharah, and she is not required to repeat the sa'y. But if the hadath occurs before completing the fourth round, she waits until the day of `Arafah. If by that time she regains taharah and is in a position to complete the .remaining acts, she does so. Otherwise her Hajj is converted to Hajj al_'ifrad

As mentioned earlier, the Hanafis permit tawaf for a woman in the state of hayd, and do not require taharah. According to the Hanafi work Fath al_Qadir, one who leaves three or fewer rounds of the tawaf al_ziyarah should sacrifice a sheep; if four, he remains in the state of ihram as long as he does not complete the rounds of tawaf. But .if he leaves off more than four rounds, it is as if he had not started the tawaf at all

According to the Imdmiyyah, if after completing the rounds of tawaf one doubts whether he performed them correctly as required by the Shari`ah or whether he ,performed the exact number of rounds

his doubt is of no consequence. His tawaf is considered valid and complete and there is nothing upon him. But if the doubt occurs before finishing the tawaf, he should consider whether he has performed at least seven rounds, such as when he doubts whether he made seven or eight rounds. If he is certain of having performed seven .rounds, then his tawaf is considered valid

However, if he is not certain of having performed seven rounds......as in the case when he doubts whether he is in his sixth or seventh round, or in his fifth or sixth......in that case his tawaf is invalid and he should start afresh. It is preferable in such a case to complete the present tawaf before starting afresh. (۱) This is true of a wajib tawaf. In case of a mustahabb tawaf, the basis is the least number of rounds under seven one is certain of having performed, regardless of whether the doubt occurs during or after .the last round

For the non...Imamiyyah schools, the rule is the least number of rounds one is certain of having performed.....a rule which is similar to the one they apply to the doubt in the .number of rak`ah's of salat

These are the ahkam, the mustahabbat, and the wajibat of tawaf, which, like the ruku` and sujud in salat, is always the same in all cases, whether as a part of the `Umrah mufradah, `Umrat al...tamattu; Hajj al...qiran, or Hajj al...'ifrad, and regardless of whether it is tawaf

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۱- This is in agreement with the fatawa of al...Sayyid al...Hakim and al...Sayyid al...Khu'i.

.`al_ziyarah, tawaf al_nisa; tawaf al_qudum, or tawaf al_wada

As mentioned above, the tawaf is the next act after ihram in `Umrat al_tamattu; but in the Hajj its turn comes after the pilgrim has gone through the rituals of Mind (on the .`Id day) as shall be explained later

Sa'y

point

All the schools agree that sa'y follows the tawaf, or its rak'atayn for those who consider them wajib. So also they agree that one who performs sa'y before tawaf should revert and perform his tawaf first and then the sa'y. I haven't come across any (opinion holding that the sa'y must immediately follow the tawaf (muwalat).(١

The Mustahabbat of Sa`y

According to the book Fiqh al_Sunnah, it is mustahabb to ascend the hills of Safa and Marwah, and, facing the Holy Ka'bah, to pray to God for some religious or secular matter. It is well known that the Prophet (s), going out from Bab al_Safa until he could see the Ka'bah. Facing it, he thrice declared the Unity of God and magnified Him; then :praising God he said

لا إله إلا الله وحده لا شريك له، له الملك، ولله الحمد، يحيي ويمت، وهو على كل شيءٍ قدير، لا إله إلا الله وحده، أنجز وعده، ونصر عبده، وهزم الأحزاب وحده

There is no god except Allah. He is One, and has no partner. To Him belongs the Kingdom and the Praise. He gives life and makes to die and He is powerful over every thing. There is no god except Allah. He is One. He has fulfilled His promise and

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١ - Al_Sayyid al_Hakim says: "It is not obligatory to hasten to perform the sa'y after finishing the tawaf and its salat, but it is also not permissible to delay voluntarily until the next day." Al_Sayyid al_Khu'i says, "It is binding on one not to make a considerable delay without need in performing the sa'y after the tawaf and its salat, and it is not

permissible to delay it intentionally until the next day." I say, these verdicts of the two .scholars are supported by sahih ahadith

.granted victory to His slave, vanquishing all the parties (of the infidels). He is One

The mustahabbat of sa’y according to the Imamiyyah book al-Jawahir are the following: to draw one's hand on the Black Stone; to drink from the water of Zamzam and to sprinkle it on oneself; to leave [al-Masjid al-Haram] through the door facing the Black Stone; to ascend the Safa; to face al-Rukn al-`Iraqi; to praise God (hamd) and magnify Him (takbir); to prolong one's stay al-Safa; and, after seven takbirs, to say :three times

لا ـ إله إلا الله وحـده، لا شـريک له، له الملک، والله، الحمـد، يحيى ويميت، وهوحيٌ لا يموت، بيـده الخير، وهو على کل شـيءٍ قدير.

.(After this he recites the prayer recommended by tradition (al-du`a' al-ma'thur

As can be seen from the above, there is no divergence in this matter between the Shi`ah and the Sunni schools, except for some difference of expressions used. Also, I have not come across any jurist who regards taharah (from hadath and khabath) as obligatory for sa`y; most of the schools have expressly stated its being only mustahabb and the same is true (except for the Shafi'i) of the drawing of the hand .(istilam) on the Black Stone before leaving for sa’y

Also, all the schools are explicit about the istihbab of covering the distance between `the Milayn' (an expression used by the Hanafis and Malikis) or `the intervening distance' (wasat al-masafah, an expression used by Shafi'is) or `between the Minaret and the Alley of the Pharmacists' (as Imamiyyah say) with

a fast pace (harwalah). (١) Without doubt, an informed guide is necessary to enable the pilgrims to recognize the points designated as `Milayn' or `the Alley of the .'Pharmacists' (Zuqaq al_`Attarin), or `the Minaret

The Way of Performing Sa'y

point

Although there is agreement between the schools about the necessity of sa'y, they disagree about its being an essential part (rukn) of the rites of Hajj. According to the Imami, Shafi`i, and Maliki schools, it is a rukn; according to Abu Hanifah, it is not a rukn, though a wajib. Two different traditions are narrated from Ahmad ibn Hanbal. ((al_Tadhkirah, Fiqh al_Sunnah

All are agreed on the number of ashwat (sing. shawt) being seven, and that the performer of sa'y (i.e. sa'i) should begin at Safa going towards Marwah, and return again to Safa,(٢) covering this distance seven times. Thus the pilgrim makes four ashwat going from Safa to Marwah and three ashwat while returning from Marwah to .Safa, beginning his first shawt from Safa and finishing the seventh at Marwah

The schools disagree as to the permissibility of making the sa'y on a mount in spite of the ability to walk, and all of them, with the exception of the Hanbalis, permit it regardless of whether one can walk or not. The Hanbalis say that it is permissible only .for one who cannot walk

I have not come across any opinion regarding continuity (muwalat) between the ashwat as wajib(٣), with the exception of the Hanbalis, who, as also mentioned by the author of al_Fiqh `ala al_madhahib al_'arba`ah, consider it

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Harwalah is a kind of walk which resembles that of a camel when it wants to pick up -١ speed. According to the Imamiyyah, if the one performing the sa'y is riding, he should .spur it to make the beast walk faster

The author of al_Mizan quotes Abu Hanifah to the effect that he does not see any -٢

objection in the converse, i.e. performing of the sa'y by starting at Marwah and finishing at Saf'a.

٣- Al-Sayyid al-Hakim in his book on the manasik of Hajj says that muwalat (continuity of succession) is not required in the ashwal of the sa'y, and it is permissible to separate or interrupt them.....even after a single shawt.....and to pick up the count again after the break.

wajib. Also, it is said of Malikis that according to them if the gap between the ashwat were to become inordinate, one should begin sa’y afresh; but if the gap were not prolonged, such as when one discontinues for selling or purchasing something, it is .forgivable

Note

Al_Sayyid Muhsin al_Hakim, in his book on the rites of Hajj, says, "It is obligatory, while going and returning, to keep one's face turned towards one's destination .... Therefore, if someone were to turn his face away from it or were to walk backwards, or in a lateral way, it is not correct. However, there is nothing wrong in turning the face this way and that way while continuing to face the destination in the course of ".movement

He means that it is obligatory that the body should face Marwah while going and should be toward Safa while returning, and it is not permissible to make the approach with only a shoulder facing the direction of the destination.....as may happen due to overcrowding of the pilgrims; also, while moving, the face in particular should remain .in the right direction

Al_Sayyid al_Khu'i makes a similar statement in his work on the rites of Hajj; his words are: "It is wajib to face Marwah while going and to be towards Safa while returning. Thus if one turns his back towards Marwah while going and towards Safa while returning, it does not satisfy (lam yujzi', i.e. the conditions for a correct sa’y). Also, one should not turn towards his

right or left, neither should he turn back either during the going (dhahab) or during the .(return (iyab

The Ahkam of Sa'y

One who cannot perform the sa'y, either on foot or on a mount, may depute another to perform it on his/her behalf, and the Hajj would be correct. There is nothing wrong in looking to the right or the left or turning back to look during the coming and the .going

If someone makes more than seven ashwat intentionally, his sa'y is invalid, but not if the lapse was unintentional. If one were to have doubts about the number of the ashwat performed after finishing his sa'y, it is assumed to have been correct and nothing is required of him. The author of al-Jawahir bases this hukm about the doubt .after finishing on the principle of negation of haraj, as well as on tradition

However, if the doubt were to occur before finishing the sa'y, the author of al-Jawahir says that there is no difference of opinion about, nor any objection against, the invalidity of the sa`y in case of any doubt about the number of the ashwat performed, whether of having exceeded or fallen short of the required number. In both cases the sa'y at hand is invalid. If one suspects one's having begun from Safa, his sa'y is correct. But if he thinks that he might have started from some other place, it is invalid. Also if one suspects the number of ashwat already performed, and does not know how many one has

.completed, one's sa`y is invalid

If one has recorded the number of ashwat performed, but doubts whether one started the first one from Safa or Marwah, he should consider the number of his present shawt and the direction he is facing. If, for instance, the number is an even one (۲, ۴, or ۶) and he is at Safa or facing it, his sa'y is correct; because this shows that he had begun at Safa. Similarly, if the number is odd (۳, ۵, or ۷) and he is at Marwah or facing it. But if the case is reverse, that is in an even shawt he is facing Marwah or in an odd one facing towards Safa, his sa'y is invalid and should be begun anew. ((al-Jawahir

According to the other schools, the rule is to take the minimum one is certain of having (performed, as in the case of salat. (Kifayat al-'akhyar

According to Abu Hanifah the Hajj is not invalid even if the sa`y is omitted altogether, (because it is not a rukn and can be made good by a sacrifice. (al-Shi'rani's al-Mizan

Taqsir

point

According to Ahmad ibn Hanbal and Malik, it is necessary to shave (halq) or shorten the hair (taqsir) of the entire head. According to Abu Hanifah the same of a one-fourth portion of the head is sufficient; according to al-Shafi'i cutting of three hairs suffices. ((Karrarah's al-Din wa al-Hajj

According to the Imamiyyah, in taqsir one has the free choice of performing it by shortening either the hair

.of the head, the beard, or the moustaches or the fingernails

All the five schools agree that taqsir is an obligatory rite, though not a rukn. According to al‑Sayyid al‑Hakim, its relationship to Hajj is the same as that of the salam with respect to the salat, because the muhrim is relieved after it of his state of ihram in the same way as one performing the salat is after the salam.

The taqsir or the halq, whatever be the divergence of opinion about them, is to be performed once during 'Umrah mufradah and twice during Hajj al‑tamattu’. The details follow.

Taqsir in `Umrah

point

According to the Imamiyyah, one performing 'Umrat al‑tamattu' has to perform taqsir after the sa’y; it is not permissible for him to perform halq. After it everything forbidden to him in the state of ihram becomes permissible. But if he performs halq, he should sacrifice a sheep. However, if he is on 'Umrah mufradah, he may choose between halq and taqsir, regardless of whether he brings along with him the hady or not.

If the taqsir is omitted intentionally, in case one had planned to perform Hajj al‑tamattu' and had assumed ihram before performing the taqsir, his 'Umrah is invalid and it is then obligatory upon him to perform Hajj al‑'ifrad: that is, the rites of Hajj followed by 'Umrah mufradah, and it is better for him to do Hajj again the next year.'(۱) [۴۸]

According to non‑Imamiyyah schools, one has a choice between taqsir and halq after finishing his sa’y. As to relief

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۱ - This agrees with the fatwas of al‑Hakim and al‑Khu'i. Al‑Hakim, however, distinguishes between one who forgets (nasi) and one who is ignorant (jahil); he

.(excuses the first not the latter, who is included with the willful defaulter (`amid

from the state of ihram, if one were performing a non-tamattu' 'Umrah, he obtains relief from ihram after halq or taqsir, regardless of whether the hady accompanies him or not. But if one is performing 'Umrat al-tamattu; he is relieved of ihram if not accompanied by the hady; but if accompanied he remains in the state of ihram. ((al-Mughni

Taqsir in Hajj

The second type of taqsir is a part of the rites of all the various kinds of Hajj-tamattu', qiran, or ifrad--to be performed by Hajj pilgrim after the dhabh or nahr (animal sacrifice) in Mina. All the schools agree that here one has a choice between taqsir and halq, halq being more meritorious. They disagree, however, in regard to one with matted hair, whether he must shave his head or if, like others, he also has a choice between halq and taqsir. The Hanbali, the Shafi' i, and the Maliki schools prescribe only halq for him, but the Imamiyyah and the Hanafi give him the same choice as .others

All the legal schools agree that women don't have to perform halq, rather, they may .perform only taqsir

Abu Hanifah and a group of Imamiyyah legists say that one who is bald, completely or partially, as when only the frontal portion of the head is hairless, must nevertheless draw the razor over the [hairless portion of the] head. The rest only consider it .(mustahabb (al-Hada'iq, Fiqh al-Sunnah

According to the Imamiyyah, the halq or the taqsir is obligatory in Mina. Therefore, one who departs without halq

or taqsir should return to perform either of the two, regardless of whether his lapse was intentional or not, and despite the knowledge or out of ignorance. However, if it is .difficult or infeasible for him to return, he may perform it wherever he can

(As to the rest, they say that it should be performed within the haram. (Fiqh al_Sunnah

All agree that sex is not permitted after the halq or the taqsir. The Malikis include perfume as also being impermissible. The Imamiyyah include with the above two hunting (sayd), which is forbidden because of the respect for the sanctity of the haram. Apart from these three things, the rest are permissible by the consensus of all the five schools. For the four Sunni schools, everything, including sex, becomes permissible after the tawaf al_ziyarah. As for the Imamiyyah, sex and perfume are .'not allowed until after the tawaf al_nisa

:We conclude this section with the words of al_'Allamah al_Hilli in his Tadhkirah

If [the pilgrim] departs from Mina without halq or taqsir, he returns to perform it there......an obligation if within the reach of possibility. But if his returning is not possible, he performs halq wherever he is, sending his hair to be carried to Mina to be buried there, which if he cannot there is nothing upon him .... The time for halq is on :[the day of ` Id, by consensus, for the Almighty has said [in Qur'an

..وَلَا تَحْلِقُوا رُءُوسَكُمْ حَتَّىٰ يَبْلُغَ الْهَدْيُ مَحِلَّهُ ...

And do not shave your head until"

;(the sacrifice reaches its [specified] destination." (۲:۱۹۶

and the place of the sacrifice (hady) is Mina on the day of `Id. It has been recorded that the Prophet (s) performed first ramy, then nahr, and then halq, at Mina on the `Id .day

We shall have occasion to refer to the hukm about the ha۱q performed prior to the (dhabh while discussing later the rites of Mina.(۱

The Wuq'uf

The Wuq'uf in 'Arafat

point

The pilgrim performing `Umrah mufradah or Hajj al-tamattu` first assumes ihram, then performs tawaf offers the rak`atayn, then performs sa'y, then taqsir. This order is obligatory, and in it while the ihram precedes all the other steps, the tawaf precedes (the salat, the salat is prior to the sa'y, and at the end is taqsir. (۲

The Second Rite of Hajj

The rites of Hajj, as in the case of `Umrah, start with ihram. However, the rite which is next to ihram in the case of Hajj, and is considered one of the arkan of Hajj by consensus, in the wuquf (halt) in `Arafat, there being no difference whether one is on Hajj al-'ifrad or Hajj al-tamattu; although it is permissible for those on Hajj al-'ifrad or Hajj al-qiran to enter Makkah to perform a tawaf after assuming ihram and before proceeding to `Arafat. This tawaf (called tawaf al-qudam) resembles the rak`atayn .called tahiyyat al-masjid, recommended as a mark of respect to a mosque

Al-Sayyid al-Hakim, in his book on the rites of Hajj, says, "It is permissible for one intending Hajj al-qiran or al-'ifrad to perform the mustahabb

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This agrees with the fatwas of al-Hakim and al-Khu'i. Al-Hakim, however, - ۱

distinguishes between one who forgets (nasi) and one who is ignorant (jahil); he excuses the first not the latter, who is included with the willful defaulter (`amid).

٢ - Al-Shaykh `Abd al-Muta'al al-Sa`idi says: This order is obligatory in the rites of `Umrah, but in the rites of Hajj there is no order of sequence between the tawaf and the halq, orbetween the sa'y and the wuquf at 'Arafat. See al-Fiqh al-musawwar ala Madhhabal-Shafi'i.

tawaf on entering Makkah and before proceeding to wuquf [in `Arafat]." Ibn Hajar, in Fath al_Bart bi Sharh al_Bukhari, writes: "All of them [the four legal schools] agree that there is no harm if one who has assumed ihram for Hajj al_'ifrad performs a tawaf of the (Holy) House," that is, before proceeding to `Arafat. One on Hajj al_tamattu', as .said, should perform the tawaf of `Umrat al_tamattu` instead of the tawaf al_qudum

Before the Halt in `Arafat

There is consensus among the legal schools that it is mustahabb for the Hajj pilgrim to go out from Makkah in the state of ihram on the day of Tarwiyah (the ٨th of Dhu .al_Hijjah), passing towards Mina on his way to `Arafat

According to the Imamiyyah books al_Tadhkirah and al-Jawahir, it is mustahabb for one intending to proceed towards `Arafat not to leave Makkah before offering the zuhr and `asr prayers. The four Sunni schools say that it is mustahabb to offer them (at Mina. (al_Mughni

In any case, it is permissible to proceed to `Arafat a day or two before that of Tarwiyah, in particular for the ill, the aged, women, and those who are claustrophobic. Also it is permissible to delay until the morning of the ٩th so as to arrive at `Arafat by .(the time when the sun crosses the meridian (zawal

I have not come across any jurist who considers it wajib to spend at Mina the night before the day of wuquf at `Arafat, or to perform some rite there. Al_`Allamah al_Hilli, ,in his Tadhkirah

writes: "To spend the night of `Arafah at Mina for resting is mustahabb; but it is not a rite, nor is there anything against one who doesn't do it." Fath al-Bari and Fath al-Qadir have something similar to say.

The word `rest' (for istirahah) used by al-`Allamah al-Hilli does not need to be explained, for travel in the past used to be exhausting; so he considered it mustahabb for the pilgrims to stay for the night at Mina so as to arrive looking fresh and in good spirits at `Arafat. But travel today is quite a pleasure. Therefore, if one spends the night of `Arafah in Makkah, going to `Arafat the following morning, or after the zuhr prayer, passing through Mina on his way-----as the pilgrims' practice is nowadays-----that is sufficient and there is nothing wrong in that. The pilgrim will return to Mina later after the halt in `Arafat, for the ramy al-Jamrah-----but to that we shall come later.

The Period of the Halt in Arafat

There is consensus among the legal schools that the day of the halt in 'Arafat is the ٩th of Dhu al-Hijjah, but they disagree as to the hour of its beginning and end on that day. According to the Hanafi, the Shafi'i, and the Maliki schools, it begins at midday on the ٩th and lasts until the daybreak (fajr) on the tenth. According to the Hanbali school, it begins from the daybreak on the ٩th until daybreak on the tenth. According to the Imamiyyah, from midday on the ٩th until sunset on

the same day, for one who is free to plan; and in case of one in an exigency, until the .following daybreak

It is mustahabb to take a bath for the wuquf in 'Arafat, to be performed like the Friday bath. There is no rite to be performed in 'Arafat except one's presence there: one may .sleep or keep awake, sit, stand, walk around or ride a mount

The Limits of ‘Arafat

The limits of 'Arafat are `Arnah, Thawbah, and from Nimrah to Dhu al-Majaz, which are names of places around 'Arafat. One may not make the halt in any of those places, neither in Taht al-'Arak, because they are outside 'Arafat. If one were to make the halt in any of those places, his Hajj is invalid by consensus of all the schools, with the exception of the Maliki, according to which one may halt at `Arnah though he will .have to make a sacrifice

The entire area of 'Arafat is mawqif (permissible for the wuqaf) and one may make the halt at any spot within it by consensus of all schools. Al-'Imam al-Sadiq (`a) relates that when the Prophet (s) made the halt at 'Arafat, the people crowded around him, rushing along on the hoof-prints of his camel. Whenever the camel moved, they moved along with it. (When he saw this), the Prophet said, "O people, the mawqif is not confined to where my camel stands, rather this entire 'Arafat is mawqif," and pointed to the plains of 'Arafat. "If the mawqif were limited to

(where my camel stands, the place would be too little for the people." (al-Tadhkirah

The Conditions Applicable to the Halt

Taharah (ritual purity) is not a condition for the halt at 'Arafat, by consensus of all the schools.

According to the Imamiyyah and the Maliki schools, the halt at `Arafat must be made with prior intention (niyyah) and with the implied knowledge that the place where he is halting is indeed 'Arafat. Thus if he were to pass on without knowing, or know without intending the wuquf it is not considered wuquf as such.

According to the Shafi`i and the Maliki schools, neither intent nor knowledge is a condition. All that is required is freedom from insanity, intoxication, and loss of consciousness. According to the Hanafis, neither intent, nor knowledge, nor sanity is a condition; whosoever is present in 'Arafat during the specific period, his Hajj is correct, intent or no intent, whether he knows the place or not, whether sane or insane. (Fiqh al-Sunnah, al-Tadhkirah)

Is it necessary to make the halt in 'Arafat for the full specified period, or is it sufficient to be present there for some time, even if it is for a single moment?

According to the Imamiyyah, there are two kinds of periods for the halt, depending on whether one arrives at a time of his own choice (ikhtiyari) or the time is forced upon him by circumstances beyond his control (idtirari). In the case of the former, the period of halt for him is from midday on the ninth until sunset on the same

.day; in the case of the latter, the period lasts until the daybreak of the tenth

So one who can make the halt from noon until sunset for the entire period, it is wajib upon him; although halt not far the entire period but halt for a part of it is rukn [that is without it the Hajj would not be valid], the rest being merely a wajib. This means that if someone omits the halt his Hajj is invalid far not performing a rukn of it. But if one makes a short halt, he has omitted only a wajib which is not rukn, and so his Hajj does not lose its validity [on this account]. Moreover, if someone cannot make the halt for the entire ikhtiyari period, due to some legitimate excuse, it is sufficient for him to .make the halt for a part of the night of `Id

According to the Shafi'i, the Maliki, and the Hanbali schools, mere presence even if for (a single moment, is sufficient. (al_Fiqh `ala al_madhdhib al_'arba `ah, Manar al_sabil

According to the Imamiyyah, if one leaves `Arafat intentionally before the midday, he must return and there is nothing upon him if he does. But if he doesn't, he must sacrifice a camel, and if that is beyond his means fast for ۱۸ days in succession. But if the lapse were by oversight and he does not discover it until the time is past, there is nothing upon him, on condition that he is present

at the halt in al…Mash'ar al…Haram in time. But if he remembers before the period .expires, he must return as far as possible, and if he doesn't he must sacrifice a camel

The Malikis say that one who makes the halt in `Arafat after the midday and leaves `Arafat before the sunset, he must repeat the Hajj the following year if he does not return to `Arafat before the daybreak (on the ٩th). But all other legists say that his (Hajj is complete. (Ibn Rushd's Bidayah

According to al…Fiqh al…musawwar `ala madhhab al…Shafi'i, "if one forgets and omits the halt, it is obligatory upon him to change his Hajj into `Umrah, and then complete the remaining rites of Hajj after performing its rites; also he must repeat the Hajj in ".the immediate following year

It is mustahabb for one performing the halt in 'Arafat to: observe taharah; face the Holy Ka'bah; and do a lot of dua' and istighfar, with due surrender, humility, and with a .heart…felt presence before God

The Wu'quf in Muzdalifah

point

The halt in Muzdalifah is the next rite after the halt in `Arafat, by consensus of all the schools. They also agree that when the Hajj pilgrim turns to Muzdalifah (where al…Mash'ar al…Haram is situated) after the halt in `Arafat, he is acting in accordance :with the following Divine verse of the Qur'an

فَإِذَا أَفَضْتُمْ مِنْ عَرَفَاتٍ فَاذْكُرُوا اللَّهَ عِنْدَ الْمَشْعَرِ الْحَرَامِ وَاذْكُرُوهُ كَمَا هَدَاكُمْ

When you pour forth from 'Arafat, then remember Allah in al…Mash'ar al…Haram, .remembering Him in the way you have been shown

(۲:۱۹۸)

Also, there is agreement that it is mustahabb to delay the maghrib (sunset) prayer on the night preceding the `Id day until Muzdalifah is reached. The author of al-Tadhkirah writes that when sun sets in `Arafat, then one should go forth before the (maghrib) prayer towards al-Mash'ar al-Haram and recite there the supplication prescribed by tradition. The author of al-Mughni says, "It is sunnah (i.e. mustahabb) for one leaving `Arafat not to offer the maghrib prayer until Muzdalifah is reached, whereat the maghrib and the `isha' prayers should be offered together.

There is no difference regarding this, as Ibn al-Mundhir also points out when he says: "There is consensus among the `ulama', and no divergence of opinion, that it is sunnah for the Hajj pilgrim to offer the maghrib and the `isha' prayers together; the basis for it is that the Prophet (s) offered them together.' "(۱)

All the legal schools, with the exception of the Hanafi, agree that if one were to offer the maghrib prayer before reaching Muzdalifah and not offer the two prayers together, his salat is nevertheless valid despite its being contrary to what is mustahabb. Abu Hanifah does not consider it valid.

The Limits of Muzdalifah

According to al-Tadhkirah and al-Mughni, Muzdalifah has three names: Muzdalifah, Jam`, and al-Mash'ar al-Haram, its limits are from al-Ma'zamayn to al-Hiyad, towards the valley of Muhassir. The entire Muzdalifah is mawqif, like `Arafat, and it is legitimate to make the halt at any spot inside it. According to al-Madarik, it is a settled and definite

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۱ - This act of the Prophet (s) makes the grounds for the Imamiyyah for the permissibility of offering the two prayers together, because the Prophet (s) had said, "Pray in the same way as you see me praying." The fact that something is permitted at one time or a place suggests its permissibility in all places and at all times, unless

there is some textual proof (nass) to show that it is particular and not general. But there is no nass in favour of its being particular (takhsis). Therefore offering the two .prayers together is permissible in general and at all times and in all places

matter among the Imamiyyah legists that it is permissible, in case of overcrowding, to .ascend the heights towards the hill, which is one of the limits of Muzdalifah

The Night at Muzdalifah

Is it obligatory to spend the entire night of `Id at Muzdalifah, or is it sufficient to halt in al…Mash'ar al…Haram even for a moment after the daybreak? (It is assumed, of course, that the meaning of wuquf is mere presence: one may be walking around, .(sitting or riding a mount, as in the case of the halt at 'Arafat

According to the Hanafi, the Shafi`i, and the Hanbali schools, it is obligatory to spend the entire night at Muzdalifah and the defaulter is required to make a sacrifice. (al…Mughni) According to the Imamiyyah and the Maliki, it is not wajib, though meritorious. This is what Shihab al…Din al…Baghdadi the Maliki, in his Irshad al…salik, .and al…Hakim and al…Khu'i have confirmed. However, no one has considered it a rukn

As to halting in al…Mash'ar al…Haram after the daybreak, Ibn Rushd, in al…Bidayah wa al…nihayah, cites the consensus of the Sunni fuqaha' to the effect that it is one of the .(sunan (sing. sunnah) of the Hajj, not one of its furud (duties; sing. fard

According to al…Tadhkirah, "It is obligatory to halt in al…Mash'ar al…Haram after the daybreak, and if someone were to leave intentionally before the daybreak after halting there for the night, he must sacrifice a sheep. Abu Hanifah also says that it is obligatory to halt after the daybreak. The rest of

the schools permit departure after midnight." Therefore, with the exception of the Imamiyyah and the Hanafi schools, others permit departure from Muzdalifah before .the daybreak

The Imamiyyah say that the time of halt in al_Mash'ar al_Haram is of two kinds: the first (ikhtiyari) is for one who has no reason for delaying, and that is the entire period between the daybreak and the sunrise on the day of `Id; whoever leaves advertently and knowingly from the Mash'ar before the daybreak and after being there for the whole or part of the night, his Hajj is not invalidated if he had halted at 'Arafat, although he must sacrifice a sheep. If he had left the Mash'ar on account of .ignorance, there is nothing upon him, as made explicit in the above quotation

The second (idtirari) is for women and those who have an excuse for not halting between the daybreak and the sunrise; their time extends to midday on the day of `Id. The author of al_Jawahir says that there is both textual evidence (from hadith) as well as consensus to support the above prescription, and the fatawa of al_Sayyid al_Hakim and al_Sayyid al_Khu'i are also in accordance with it. The latter has not stated midday as the idtirari time limit, but says that it is sufficient to make the halt .after sunrise

The Imamiyyah also say that the wuquf in the two specified periods of time is a rukn of the Hajj. Therefore, if someone does not perform it altogether either in

the ikhtiyari period for the night or in the idtirari period, his Hajj is invalid if he hadn't spent the night there; but not if the default ـwas on account of a legitimate excuse, on condition that he had performed the halt at 'Arafat. So one who fails to make the halts at 'Arafat and the Mash'ar, neither in the ikhtiyari nor in the idtirari period, his Hajj is invalid even if the failure was on account of a legitimate reason. It is obligatory upon him to perform Hajj the year after if the Hajj intended was a wajib one; and if it was a (mustahabb Hajj, it is mustahabb for him to perform it the next year. (al-Jawahir

The halt in alـMash'ar alـHaram is held in greater importance by the Imamiyyah than the one in 'Arafat; that is why they say that one who loses the chance to be present at the halt in 'Arafat but participates in the halt at the Mash'ar before the sunrise, his (Hajj is complete. (alـTadhkirah

Mustahabbat of the Mash`ar

According to the Imamiyyah it is mustahabb for one performing Hajj for the first time (to put his feet on the ground of the Mash'ar. (al-Jawahir

According to the Imamiyyah, the Shafi`i and the Maliki schools, it is mustahabb while leaving for Mina to gather seventy pebbles, for the ramy alـjamarat, at Muzdalifah. The reason for this, according to the author of alـTadhkirah, is that when the Hajj pilgrim arrives in Mina he should not be detained by anything from the

rite of the ramy. Ibn Hanbal is narrated to have said that the pebbles may be gathered from any place; and there is no disagreement that it suffices to gather them .from whatever place one wishes

The maintenance of taharah, the pronouncing of tahlil, takbir, and du`a' (the .prescribed one or something else) is also mustahabb

At Mina

All the schools are in agreement that the rites after the halt at al-Mash'ar al-Haram are those of Mina, and that departure from Muzdalifah is after the sunrise, and one who leaves before sunrise, passing beyond its limits, according to al-Khu'i, must .sacrifice a sheep as kaffarah

At Mina one performs several rites which continue from the Day of Sacrifice (yawm al-nahr), or the day of `Id, until the morning of the thirteenth or the night of the twelfth. The wajibat of Hajj are completed in Mina. The three days following the day (of `Id (the ۱۱th, ۱۲th, and the ۱۳th) are called "ayyam al-tashriq."(۱

Three rites are obligatory at Mina on the day of `Id: (۱) ramy of the Jamrat al-`Aqabah; (۲) al-dhabh (slaughtering of the sacrificial animal); (۳) halq or taqsir. Agreeing that the Prophet (s) performed first the ramy, then the nahr (or dhabh) and then the taqsir, the schools disagree whether this order is obligatory and if it is impermissible to change that order, or if the order is only mustahabb and may be .altered

According to al-Shafi` i and Ahmad ibn Hanbal, there is nothing upon one who changes the order. Malik

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There is disagreement about the Ayyam al-Tashriq as to whether they comprise -۱ two or three days. As to their naming, it is because during those days the pilgrims .used to dry strips of the meat of the sacrificed animals in the sun

says that if someone performs halq before the nahr or the ramy, he must make a sacrifice; and if he was performing Hajj al_qiran then two sacrifices. (Ibn Rushd's al_Bidayah). According to the Imamiyyah, it is a sin to change the order knowingly and intentionally, although repetition is not required. The author of al_Jawahir says, "I have not found any difference of opinion on this point", and al_Madarik states that the .jurists are definite on this point

.Now we shall deal with each one of these rites under a separate heading

Jamrat al `Aqabah

The Number of Jimar

Ramy al jimar, or the symbolic throwing of pebbles performed in Mina, is obligatory upon all pilgrims of the Hajj, whether tamattu; qiran or ifrad. This rite is performed ten times during the four days. The first ramy, in which only one point called Jamrat al_`Aqabah is stoned, is performed on the day of `Id. On the second day, i.e. ١١th of Dhu al_Hijjah, the three jimar are stoned, and again every three on the third and the fourth day. This applies to the Hajj pilgrim who spends the night of the twelfth in Mina; .otherwise there is no ramy for him on that day

Jamrah of the Tenth of Dhu al_Hijjah

point

The legal schools agree that it suffices to perform the ramy of the Jamrat al_`Aqabah any time from sunrise until sunset on the tenth of Dhu al_Hijjah, but disagree as to its performance before or after that period. According to the Maliki, the Hanafi, the Hanbali and the Imami schools, it is not permissible to

perform the ramy of the Jamrat al-`Aqabah before the daybreak, and if performed without an excuse, must be repeated. They permit it for an excuse like sickness, weakness, or insecurity (fear).

According to the Shafi'i school, performing the rite earlier is unobjectionable, for the specified period is mustahabb not wajib (al-Tadhkirah, Ibn Rushd's Bidayah). However, if delayed until after sunset on the day of `Id, according to Malik, the defaulter must make a sacrifice if he performs the rite during the night or the next day. According to the Shafi`is, there is nothing upon him if he performs the rite of ramy in the night or the next day. (Ibn Rushd's Bidayah)

According to the Imamiyyah, the time of this ramy extends from sunrise until sunset on that day. If forgotten, the rite must be performed the next day. If again forgotten, on the ١٢th, and if one fails again, it can be performed on the ١٣th. But if one forgets until one has left Makkah, he may carry it out the following year, either himself or through a deputy who carries it out on his behalf.(١)

The Conditions of Ramy

There are certain conditions for the validity of ramy al jamarat:

١. Niyyah: stated by the Imamiyyah explicitly.

٢. That each ramy must be carried out with seven pebbles; there is agreement on this point.

٣. The pebbles must be thrown one at a time, not more; again there is consensus on this point.

٤. The pebbles must strike the known target; there is also consensus on this

p: ٨١

١- This is in agreement with the fatwas of al-Hakim and al-Khu'i.

.point

The pebbles must reach their target through being thrown (ramy); thus if they are .۵ tossed in some other manner, it does not suffice according to the Imami and the Shafi'i schools, and is not permissible according to the Hanbali and the Hanafi schools. ((al…Mughni

The pebbles must be of stone, not of other material, like salt, iron, copper, wood or .۶ porcelain, etc.; this is accepted unanimously by all the schools except that of Abu Hanifah, who says that it is all right if pebbles are made of some earthen material, (such as porcelain, clay or stone. (al…Mughni

The pebbles must be `new', that is, not used for rainy before; the Hanbalis state .۷ .this condition expressly

.Taharah is not a condition in ramy, though desirable

The Imamiyyah say that it is mustahabb that the pebbles be about the size of a finger tip and rough, neither black, nor white, nor red. The other schools say that their size .('must be about that of the seed of a broad bean (baqila

The Imamiyyah also say that it is mustahabb for the Hajj pilgrim to perform all the rites facing the Qiblah, with the exception of the ramy of the Jamrat al…`Aqabah on the day of `Id, which is mustahabb to perform with one's back towards the Qiblah, since the Prophet (s) had performed this rite in that way. The other schools say that .facing the Qiblah is mustahabb even in this rite

Also, it is mustahabb to perform the ramy on foot (though riding a

mount is permissible), not to be farther from the Jamrah than ۱۰ cubits, to perform it with the right hand, to recite the prayers prescribed by tradition and other prayers. :Following is one of the prayers prescribed by tradition

اللهم اجعله حجاً مبروراً، وذنباً مغفوراً. اللهم إن هذه حصيائی، فأحصهن لی،

وارفعهن فی عملی ... الله أکبر. اللهم أدحر الشیطان عنی.

O God, make my Hajj a blessing, a forgiving of my sins .... O God, these pebbles of mine, reckon them and place them high in my actions .... God is Great. O God, repel .Satan from me

Doubt

What if one doubts whether the pebble thrown has struck its target or not? It is assumed not to have hit. If one doubts the number thrown, he may count from the .least number of which he is sure he has thrown

Jamrat al…`Aqabah is the first rite performed by the Hajj pilgrim in Mina on the day of `Id, which is followed by the dhabh, then halq or taqsir. After that he proceeds to .Makkah for tawaf the same day

On this day, there is no other rite of ramy for him. Now we shall proceed to discuss the .(sacrifice (hady

Hady

point

The second obligatory rite in Mina is the hady or animal sacrifice. The issues related to it are: (۱) its kinds, wajib and mustahabb, and the various kinds of wajib sacrifice; (۲) regarding those for whom the hady is wajib; (۳) the requirements of the hady; (۴) its time and place; (۵) the legal rules

about its flesh; (۶) the substitute duty of one who can neither find the hady nor :possess the means to purchase one. The details are as follow

The Kinds of Hady

The hady is of two kinds; wajib and mustahabb. The mustahabb sacrifice is the one :mentioned in the following verse of the Qur'an

فَصَلِّ لِرَبِّکَ وَانْحَرْ.

So pray unto the Lord and sacrifice' (۱۰۸:۲), which is interpreted as a commandment` to the Prophet (s) to sacrifice after the `Id day prayer. A tradition relates that the .Prophet (s) sacrificed two rams, one white and the other black

According to the Malikis and the Hanafis, the sacrifice is obligatory for every family once every year; it is, they say, similar to the zakat al fitr: The Imamiyyah and the Shafi`i schools say that the mustahabb sacrifice can be carried out in Mina on any of .(the four days, the day of `Id and the three days following it (called ayyam al...tashriq

But at places other than Mina the sacrifice may be carried out only during three days: the day of `Id, and the ۱۱th and the ۱۲th. According to the Hanbalis, the Malikis, and the Hanafis, its time is three days whether in Mina or elsewhere. In any case, the best time for the sacrifice is after sunrise on the day of `Id during a period sufficient for .(holding the `Id prayer and delivering its two khutbahs (sermons

:The obligatory sacrifices, in accordance with the Qur'anic text, are four

The sacrifice related to Hajj al...tamattu` in accordance (۱)

:with the verse

فَإِذَا أَمِنْتُمْ فَمَنْ تَمَتَّعَ بِالْعُمْرَهِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ

If in peacetime anyone of you combines the `Umrah with the Hajj, he must offer… (such sacrifice as he can… (۲:۱۹۶

The sacrifice related to halq, which is a wajib open to choice, in accordance with (۲) :the verse

فَمَنْ كَانَ مِنْكُمْ مَرِيضًا أَوْ بِهِ أَذًى مِنْ رَأْسِهِ فَفِدْيَهٌ مِنْ صِيَامٍ أَوْ صَدَقَهٍ أَوْ نُسُكٍ

But if any of you is ill or suffers from an ailment of the head, he must offer a fidyah (either by fasting or by alms…giving or by offering a sacrifice. (۲:۱۹۶

The sacrifice related to the penalty (jaza') for hunting, in accordance with the (۳) :verse

وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ هَدْيًا بَالِغَ الْكَعْبَهِ

He that kills game by design, shall present, as an offering near the Ka`bah, a domestic beast equivalent to that which he has killed, to be determined by two honest (men among you; …. (۵:۹۵

The sacrifice related to "ihsar" [some hindrance which keeps one from completing (۴) the rites of Hajj, such as illness or interruption due to an enemy], in accordance with :(the following verse (al…Tadhkirah

إِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ

(If you cannot; offer such sacrifice as you can afford… (۲:۱۹۶

Besides the above four, there are also the obligatory sacrifices related to any of the following: `ahd (pledge), nadhr (vow), yamin (oath). In what follows we shall discuss .hady as one of the rites of Hajj

?For Whom is Hady Wajib

The hady is not obligatory, by consensus

p: ۸۵

of all the schools, upon one performing `Umrah mufradah, nor on one performing Hajj al…'ifrad. Similarly, there is consensus regarding its being obligatory upon the non…Makkan pilgrim on Hajj al…tamattu`. The four Sunni schools add that it is also .obligatory upon the pilgrim on Hajjal…qiran

According to the Imamiyyah, it is not obligatory on one on Hajj al…qiran except with nadhr (vow), or when he brings along with him the sacrificial animal at the time of .assuming ihram

There is disagreement regarding whether the Makkan performing Hajj al…tamattu` must offer a sacrifice or not. According to the four Sunni schools, the hady is not wajib upon him. Al…Mughni states that "there is no disagreement among scholars that the sacrifice of tamattu` is not wajib on those living in the neighbourhood of al…Masjid al…Haram." The Imamiyyah say that if the Makkan performs Hajj al…tamattu` the hady is obligatory upon him." This is stated by al…Jawahir where it says, "If the Makkan were to perform Hajj al…tamattu; the hady is wajib upon him according to the .['widely held (mashhur) opinion [of the Imami fuqaha

The legal schools, however, agree that the obligatory hady is not one of the arkan of .Hajj

The Requirements of the Hady

:The hady must meet the following requirements

۱. It must belong to cattle, such as camel, cow, sheep, or goat, by consensus of all the five schools. As stated by al…Mughni, according to the Hanafi, the Maliki, the Shafi'i and ,the Hanbali schools: if a sheep, it must be at least six months; if a goat

of one year; if a cow, of two years; and if a camel of five years. This agrees with the Imamiyyah view as stated by al-Jawahir, with the difference that the camel must have entered its sixth and the goat its second year.

Al-Sayyid al-Hakim and al-Sayyid al-Khu'i have said that it suffices if the camel has entered its sixth and the cow or the goat its third. As to the sheep, they add, to be cautious, the sheep must have entered its second.

٢. The sacrificial animal must be free of any defect, and, by consensus, must not be one-eyed, lame, sick or old and decrepit. There is disagreement, however, regarding its acceptability in case of castration, being without horns or with broken ones, missing or mutilated ears or tail. Such are not acceptable according to al-Sayyid al-Hakim and al-Sayyid al-Khu'i, but acceptable according to the author of al-Mughni.

Al-`Allamah al-Hilli, in al-Tadhkirah, says that female camel and cow and male sheep and goats are to be preferred, although the permissibility of the converse in the two cases is not disputed by any school. The author of al-Mughni' says that the sex of the sacrificial animal is irrelevant.

The Time and the Place of the Sacrifice

As to the occasion of the sacrifice, it is, according to the Maliki, the Hanafi, and the Hanbali schools, the day of `Id and the two days following it. Abu Hanifah adds that this time is specific for the sacrificial rite of Hajj al-qiran and tamattu ; but for the others he sets no such

time limit. The Ma١ikis do not recognize any difference between various kinds of hady, .as mentioned by al_Fiqh `ala al_madhahib al_'arba`ah

The Hanbalis say that if the sacrifice is made before its time, it must be made again. If after its time, in case of mustahabb the lapse of time cancels it; and in case of wajib it must be fulfilled. According to the Hanafis, slaughtering the sacrificial animal before the three days of `Id is not sufficient, but is if done later though a kaffarah is required for the delay. According to the Shafi`is, the time of the obligatory sacrifice for Hajj al_tamattu` starts with ihram; therefore, performing it earlier [than the day of `Id] is permissible, and there is no time limit for delaying, although it is best performed on (the `Id day. (al_Fiqh `ala al_madhahib al_'arba`ah

The Imamiyyah regard niyyah as being obligatory in slaughtering (dhabh or nahr), and say that its time is on the day of `Id; although it is acceptable until the third day following it, or even until the end of Dhu al_Hijjah, although the delay is a sin. The author of al_Jawahir reports that there is no divergence [among Imami legists] on this point, even if the delay is without a [legitimate] excuse. It is not permissible, according .to the Imamiyyah, to make the sacrifice before the ١٠th of Dhu al_Hijjah

As to the place, it is the Haram, according to the Hanbali, the Shafi'i, and the Hanafi schools, which includes Mina

and other places, as mentioned above while discussing ihram and the limits of the (١) .harams of Makkah and al_Madinah

According to the Imamiyyah, there are three conditions for slaughtering the hady in Mina: (١) that the hady must have been brought in the ihram assumed for Hajj, not in the ihram for `Umrah; (٢) the pilgrim should have halted for some time of the night with the hady in `Arafat; (٣) he should have made the resolve to make the sacrifice on the day of `Id or the following day. Also the Imamiyyah say that the pilgrim of Hajj al_tamattu` may make the sacrifice nowhere but in Mina, even if his Hajj is supererogatory. But the hady brought along in the ihram of `Umrah is to be (slaughtered in Makkah. (al_Tadhkirah

In any case, for all the schools offering of the sacrifice is legitimate and preferable at Mina. Ibn Rushd says that the consensus of the `ulama' is in favour of slaughtering the hady at Mina. Secondly, the difference between the Imamiyyah and the other schools is that the Imamiyyah specify Mina, while others allow an open choice .between Mina and other places inside the haram of Makkah

The Flesh of the Hady

The Hanbalis and the Shafi'is say that the flesh of the hady whose slaughtering inside the haram is wajib is to be distributed among the poor inside it. The Hanafis and the Malikis say: it is permissible to distribute it inside or outside the haram. The Shafi'is say: one may not (oneself) eat the

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.(The distance of Mina from Makkah is one parasang (approx. ۴ miles -١

flesh of a wajib hady, but that of a voluntary or mustahabb hady is permissible. The Malikis say: with the exception of the sacrifice made as fidyah for hurting someone (adha), hunting, or sacrifice vowed (nadhr) specifically for the poor, and the voluntary hady which dies before reaching its destination; the flesh of the hady may be eaten in (all cases. (al_Mughni, al_Fiqh ala al_madhahib al_'arba`ah, Fiqh al_Sunnah

The Imamiyyah say: a third of the flesh should be given to the poor believers; another third to other believers, even the well off; and the remaining third may be consumed by the pilgrim. (al-Jawahir, al_Sayyid al_Hakim and al_Sayyid al_Khu'i in their books on .(the manasik of Hajj

(The Substitute Duty (al_Badal

All the legal schools agree that when the Hajj pilgrim cannot find the hady nor possesses means to acquire one, its substitute is to keep fasts for ten days, three of which for successive days, are to be kept during the Hajj days and the remaining (seven on returning home. This is in accordance with the Divine verse: (١

فَمَنْ لَمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ تِلْكَ عَشَرَةٌ كَامِلَةٌ

But if he lacks the means let him fast three days during the pilgrimage and seven... (when he has returned; that is ten days in all. (٢:١٩٦

The criterion of capacity to offer the hady is ability to arrange one in the place, and when it can't be done the duty of hady is changed into that of the fasts. This holds even if the

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١- It may be noted that whenever there is an explicit text of the Qur'an there is also agreement and consensus between the Islamic schools of fiqh and no difference between the Sunni s and the Shi`ah. The divergence of opinion between them arises either on account of the absence of nass (text), or its being synoptic (mujmal), or its weakness, or its contrariety with another text, or in its interpretation and application. .This is a definite proof of the fact that all of them are derived from a single source

pilgrim should be a man of means in his own homeland. This is because the obligation is specific to the occasion and so is the capacity to fulfil it. A similar case is that of .availability of water for taharah

Dhabh by a Wakil

It is preferable that the Hajj pilgrim should slaughter the hady himself, though it is permissible to ask someone else to do it, because it is one of the rites in which delegation is possible. The one deputed (wakil) makes the niyyah of slaughtering on behalf of the one who deputes, and it is better that both of them should make the niyyah together. According to the Imamiyyah it is mustahabb for the pilgrim to put his .hand on that of him who slaughters or at least be present at the time of slaughtering

Shaykh `Abd Allah al_Mamqani, in Manahij al_yaqin, writes: "If the wakil makes an error in mentioning the name of the one who appoints him, or forgets his name altogether, there is no harm in it." There is a good point here, for it is related from one of the Imams (`a) that in a marriage ceremony the wakil made a mistake while mentioning the bride's name or mentioned some other name. The Imam (`a) said, "It ".doesn't matter

Qani `and Mu`tarr

:In regard to the verse ۳۶ of the Surat al_Hajj

ا فَكُلُوا مِنْهَا وَأَطْعِمُوا الْقَانِعَ وَالْمُعْتَرَّ

(and eat of their flesh and feed with it the qani 'and the mu`tarr... (۲۲:۳۶...

al_Imam al_Sadiq (`a) said, "The qani` is the (poor) man who is content

with what you give him and does not show his displeasure and does not frown or twitch his mouth in irritation. The mu`tarr is one who comes to you for charity and ".presents himself

The Substitute for Camel Sacrifice

If the sacrifice of a camel is obligatory upon someone, through kaffarah or nadhr, and he cannot arrange it, he must sacrifice seven sheep one after another, and if that is (not possible fast for ۱۸ days. (al-Tadhkirah

Taqlid and Ish`ar

Taqlid; in this context, means putting a shoe or the like in the neck of the sacrificial` animal. `Ish`ar' means making an incision in the right side of the hump of a camel or cow and letting it be stained by blood. The Sunni jurists regard ish`ar and taqlid as mustahabb except Abu Hanifah, who says that the taqlid of the sheep and the camel is sunnah, but ish'aris by no means permissible due to the pain it causes to the animal. (al-Mughni) We all favour kind treatment of the animals, and at the same time we are all Muslims. Islam has permitted the slaughtering of animals and even made it obligatory in case of hady, as Abu Hanifah also concedes by his act and verdict. In this .light, ish'aris more entitled to permissibility

Charity to Non-Muslims

Al-Sayyid al-Khu'i, in his book on the rites of Hajj, says, "The Hajj pilgrim giving something in charity (sadaqah) or gifting the meat of the slaughtered animal, may .give the latter to anybody he wishes, even a non-mu'min or a non-Muslim

In general the Imamiyyah permit the giving

of non-wajib sadaqat or making of endowment (waqf) in favour of a Muslim or a non-Muslim. Sayyid Abu al-Hasan al-'Isfahani, in his Wasilat al-najat, says: "In giving of mustahabb sadaqah, poverty or possession of iman or islam is not a condition for the recipient. He may be a well-to-do man, a non-'Imami, a Dhimmi, and a total stranger (not a blood relation of the giver of charity)." Al-Sayyid al-Kazim, in the appendices of al-`Urwat al-wuthqa, permits giving of sadaqah even to a warring infidel (kafir harbi).

The Burning or Burying of Slaughtered Animals

It is a custom among Hajj pilgrims nowadays that they offer money to whoever would accept the hady(١), which he on receiving either buries or throws away because the number of the slaughtered animals is great and nobody around to make use of their meat.

Throughout whatever I have read I did not come across anyone who should raise a question about the permissibility or otherwise of this practice. In ١٩٤٩ a group of Egyptian pilgrims asked the al-'Azhar for a fatwa, asking the permission for giving the price of the hady as help to the needy.

In reply, al-Shaykh Mahmud Shaltut, in Vol. ١, No.٤ of the journal Risalat al-'Islam which was issued by the Dar al-Taqrib at Cairo, considered it obligatory to make the slaughter even if it should require burning or burial of the bodies of the slaughtered beasts.

I contested his opinion in a long article which appeared in two successive numbers of the above-mentioned journal in the year ١٩٥٠. When

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١- Al-Sayyid al-Hakim says, "The duty to offer the hady in sadaqah does not remain if one cannot do it... and when the poor man would not accept it without money, it is not obligatory."

the Dar al‑`Ilm li al‑Malayin, Beirut, wanted to bring out a new edition of my book al‑'Islam ma`a al‑hayat, I included it also with a title "Hal ta`abbadana al‑Shar` bi al‑hadyfi hl yutrak fihi li‑al fasad?" ("Does the Shari'ah command us to make the sacrifice in order to rot?").

There, I have drawn the conclusion that the hady is obligatory only when one can find someone to eat it or where it is possible to preserve the meat through drying or canning. But when the sacrifice is solely carried out for destruction through burning or burying, its permissibility in the present conditions seems doubtful and questionable. Anyone who wishes to see the details of my argument may refer to the second edition of al‑'Islam ma`a al‑hayat.

Later I came across a tradition in al‑ Wasa'il which confirmed my position, and which the author had placed in the Book of udhiyyah (sacrifice) in a section entitled "Bdb ta'akkud istihbab al‑'udhiyyah". The tradition reads:

عن الصادق عن أبائه عن رسول الله (ص) أنه قال: "إنما جُعل هذا الأضحى لتشبع مساكينكم من اللحم فأطعموهم."

From al‑Sadiq (`a), from his ancestors, from the Prophet (s), that he said: "This sacrifice has been instituted to feed the poor among you with meat. So feed them."

Although this tradition is related particularly to voluntary sacrifice, it also throws light on the purpose behind al‑hady al‑wajib.

Between Makkah and Medina

As mentioned, the first rite in Mina on the ١٠th is ramy of Jamrat al‑`Aqabah, after that the offering of hady, and then

thirdly, halq or taqsir. We have already discussed the third under the head "Halq or Taqsir." We have referred to the rule about doing the halq or taqsir before the dhabh when discussing the order of the rites under the head "In Mina", where the reader will .find its details

When the pilgrim completes his rites in Mina on the day of `Id (such as ramy and dhabh), he returns to Makkah to perform the tawaf al_ziyarah; then he offers its related rak'atayn and performs the sa'y between Safa and Marwah. According to the four Sunni schools, he returns to Mina after that tawaf and everything becomes permissible to him thereupon, even sex. According to the Imamiyyah, he has to perform another tawaf the tawaf al_nisa', and offer its related rak'atayn. Sex does not become permissible to the pilgrim, from the Imamiyyah viewpoint, without this tawaf .which we have already discussed in detail above

The Night at Mina

point

After completing the tawaf, the pilgrim must return to Mina during what are called Layali al_Tashriq, which are the nights of the llth, ۱۲th, and ۱۳th_____with the exception of him who being in a hurry departs after midday and before sunset on the ۱۲th; there being nothing against him who leaves under these circumstances on the third day, in :accordance with the verse

فَمَنْ تَعَجَّلَ فِی یَوْمَیْنِ فَلَا إِثْمَ عَلَیْهِ

(He that departs on the second day incurs no sin .... (۲:۲۰۳...

According to Abu Hanifah, to stay overnight in Mina is Sunnah not wajib. Those who consider it

wajib agree that it is a rite and not a rukn. They disagree, however, regarding the necessity of kaffarah upon the defaulter. According to Ahmad ibn Hanbal, there is none; according to al-Shafi`i, a mudd (al-Tadhkirah, al-Mughni, Fiqh al-Sunnah); and .('according to Malikis, a sacrifice (al-Zarqani's sharh of Malik's Muwatta

According to the Irnamiyyah, "If one spends the night at a place other than Mina, there is nothing upon him if he spends it at Makkah praying all the night until morning; but if the night is spent there without prayer, or somewhere else, in prayer or otherwise, he must sacrifice a sheep, even if the default was on account of oversight .(or ignorance". (al-Sayyid al-Hakim's Manahij al-nasikin

There is no obligatory rite for the nights in Mina, though spending them in prayer and .worship in mustahabb

Ramy during the Ayyam al-Tashriq

The schools agree that there is no rite except ramy of the three jimar every day during the three days called ayyam al-tashriq, regardless of whether the pilgrim is performing Hajj al-tamattu; al-'ifrad or al-qiran. As to the number of pebbles and ".other things they have been mentioned under "Jamrat al-` Aqabah

According to the Imamiyyah, the time of ramy on each of the three days extends from sunrise until sunset, midday being the preferable hour. The other schools say that it extends from midday until sunset, and if done earlier should be repeated. Abu Hanifah permits ramy before midday only on the third day. Ramy after sunset is permissible .only for those with a [valid] excuse

All

the five schools are in consensus about the number of jimar and the way of performing the ramy on the three days. Below is the way of its performance as .described by al-Tadhkirah and al-Mughni

The pilgrim performs ramy on each of the three days by throwing ٢١ pebbles, seven in each of the three times. He begins at the first jamrah, al-Jamrat al-'Ula, which is the farthest of them from Makkah and nearer to Masjid al-Khayf. It is mustahabb to toss the pebble in a fashion called hadhf(١), from the left side standing at Batn al-Masil, and .to say takbir with every pebble that is thrown and to pray

After that, he proceeds to the second jamrah, called al-Jamrat al-Wusta, halts at the left side of the way, and, facing the Qiblah, praises Allah and prays for blessings upon the Prophet (s), then moving ahead a little prays, and then throws the pebbles in the .same way as above, then pauses and prays after the last pebble

Then he moves on to the third point called Jamrat al-`Aqabah, and performs the rite of ramy as before, without any pause after finishing. With this the rites of ramy for the (day are complete. (٢

The total number of pebbles thrown on the three days in ٦٣ (that is, if one spends the .night of the ١٣th in Mina), ٢١ each day

.With the seven thrown on the day of `Id the total number is ٧٠

The author of al-Tadhkirah, after the above description, says that there

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Hadhf means a certain way of tossing in which the pebble is held under the thumb -١ .and tossed by the back of the index finger

Al-Sayyid al-Hakim says that it is desirable that the third ramy should be done with -٢ one's back toward the Qiblah. According to al-Mughni it should be done facing the .Ka'bah

is no difference of opinion about it. The author of al_Mughni makes a similar remark, .adding that Malik has opposed the raising of hands

The description of the rites of ramy given by the author of al_Mughni is similar if not .exactly the same as the one given above by the author of al_Tadhkirah

All schools, except Abu Hanifah, agree about the order of the ramy of the jimar, and that if one of them is stoned out of turn, then it is obligatory to repeat the rite in the correct order. Abu Hanifah says that the order is not binding. (al_Tadhkirah, (al_Mughni

The ramy may be performed on foot or from a mount, though the former is better. It is permissible for one who has an excuse that someone else may perform it for him, and there is nothing upon one if he omits the takbir, the prayer or the pause after the .second jamrah

If the ramy is delayed by a day intentionally, or on account of ignorance or oversight, or is put over completely until the last day of Tashriq and is performed on a single day, the pilgrim does not incur a kaffarah according to the Shafi`is and the Malikis. Abu Hanifah says that if one, two, or three pebbles are delayed by a day, for every pebble delayed a poor man must be fed; if four are delayed by a day, a sacrifice becomes .essential

All the four schools are in consensus that if one does not perform the

ramy at all until the days of Tashriq are past, he is not obliged to perform the rite later any time. But they disagree as to the related kaffarah, which, according to the Malikis is sacrifice regardless of some.....even one.....or all of the pebbles being omitted; according to the Hanafis the sacrifice is required for omitting all, and for fewer one .must feed a poor man for every pebble omitted

The kaffarah according to Shafi'is is a mudd of food for every pebble if two are (omitted; for three a sacrifice becomes obligatory. (Ibn Rushd's Bidayah, al-Mughni

The Imamiyyah say, if the ramy of one or more jimar is forgotten, the rite must be performed during the days of Tashriq; but if forgotten altogether until one reaches Makkah, the pilgrim is obliged to return to Mina to perform them if the days of Tashriq are not past; otherwise he must perform the rite himself the following year, or depute another to perform it; in any case there is no kaffarah upon him. (al-Tadhkirah) This agrees with the fatawa of al-Sayyid al-Hakim and al-Sayyid al-Khu'i, with the difference that the former regards the legal grounds in favour of the obligation of completion of the rite as stronger (aqwa), whereas the latter considers it as dictated by caution (ahwat), and both agree that intentional omission of ramy does not .invalidate the Hajj

We referred earlier to the consensus of all the schools that it is sufficient for the Hajj pilgrim to remain for only

two days of Tashriq in Mina and that he may depart before the sunset on ١٢th; if he remains until sunset, it is obligatory upon him to stay overnight and perform the rite of ramy on the ١٣th. The Imdmiyyah, however, say that the permissibility of leaving on the ١٢th is only for one who has not violated the prohibition on hunting and sex in the .state of ihram; otherwise he is obliged to remain in Mina on the night of the ١٣th

Offering salat in the Masjid al…Khayf at Mina is mustahabb, so also on the hill called (Khayf. (al…Tadhkirah

On returning to Makkah after the rites of Mina, it is, according to Imamis and Malikis, mustahabb to perform the tawaf al…wada; which, according to Hanafis and Hanbal is, is wajib for non…Makkans and those who do not wish to stay on in Makkah after returning from Mina. There is no tawaf al…wada; nor any fidyah, for women who enter their periods before the departure, even from the viewpoint of those who consider the tawaf as obligatory; however, it is mustahabb for her to bid farewell to the House .from the door nearest to it and without entering al…Masjid al…Haram

.Here we conclude the discussion about the rites of Hajj

The Dhu al-Hijjah Moon

It happens often that the Dhu al…Hijjah new moon is established for a non…Imami scholar, and he declares its sighting, and the authorities of al…Haramayn al…Sharifayn make it compulsory for all pilgrims to follow his ruling, regardless of whether the new

moon has been established for an Imami mujtahid or not. In such a case, what is an Imami pilgrim to do about the wuquf in `Arafat and other rites related to specific dates and times if he cannot act according to his own school of fiqh? Is his Hajj invalid ?if he makes the halt with others, performing all the rites simultaneously with them

Al...Sayyid al... Hakim, in his Manahij al...hajj (١٣٨١ H.), p. ٩١, says: "When the non...Imami authority (hakim) rules that the new moon has been sighted, so that the halt in `Arafat takes place on the ٨th of Dhu al...Hijjah and the halt in the Mash'ar on the ٩th, then on the principle of taqiyyah, or the fear of being harmed, the halt with others is valid and relieves one of the duty. The same holds in case of a na'ib undertaking Hajj on another's behalf or one on a mustahabb Hajj of oneself or that of another. Also, there is no difference with respect to fulfilment of the duty whether he knows or not ".that the ruling (of the non...Imami hakim) is contrary to the reality

Al...Sayyid al...Khu'i in Manasik al...hajj (١٣٨٠ H.), p. ٨٠, says: "When the new moon is established for a non...Imami qadi and he rules that it has been sighted, but the sighting of the new moon is not established for the Shi`ah `ulama', to follow others in making the halt is obligatory and satisfactory of the Hajj duty if there is a probability

of the ruling being correct. One who acts contrary to the dictates of taqiyyah and the possibility of being harmed, thinking that legal caution lies in acting contrary to them, (has committed something forbidden and his Hajj is invalid."(۱)

There is no doubt that God desires ease not hardship for His servants, and there is hardship in repeating the Hajj another time, even for one who has the means to undertake it more than once. But what should a poor man do who returns the next year to find the same thing to have occurred again? Should he keep on repeating the pilgrimage, two, three, or four times… until it coincides with the ruling of his school? May God's peace and benedictions be upon Amir al…Mu'minin, the Sayyid al…Wasiyyin, :who said

إن الله كلّف يسيراً ، ولم يُكلف عسيراً ، وأعطى على القليل كثيراً.

God has assigned duties which are easy to fulfil not difficult to cope with; and He .rewards much for little

Besides, we know that such kind of things happened during the era of the Infallible Imams (`a) and not one of them is known to have commanded the Shi`ah to repeat the Hajj. It is on this basis that al…Sayyid al…Hakim, in Dalil al…nasikin, says, "To fall in with the ruling of the non…Imami qadi is permissible; this is in accordance with definitive practice from the times of the Imams (`a), which has been to follow them (i.e. the non…Imamis) in the halt (at `Arafat), and no other alternative

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۱- Our teacher al…Sayyid al…Khu'i makes the absence of knowledge (that the fatwa of the non…Imami authority about the sighting of the new moon is contrary to fact) a condition for the Hajj being satisfactory of the duty. But al…Sayyid al…Hakim considers the knowledge of its contradiction with reality or absence of such knowledge indifferent to the Hajj (performed on the basis of the non…Imami faqih's declaration) being satisfactory of the duty. Here we affirm al…Hakim's position, because we

understand from the necessary grounds for taqiyyah that the 9th is a requirement for wuquf in 'Arafat when that requirement can be satisfied in presence of security and absence of any fear of harm. But in case of insecurity and fear this condition does not stand, exactly like the requirement for sajdah (prostration) in salat that it should be made on something which is not edible or wearable (ghayr al-ma'kul wa al-malbus)......a requirement which applies to conditions when security is present and which falls in case of insecurity and fear.

".has ever been suggested

However, al_Sayyid al_Shahrudi, in his Manasik al_hajj, says, "It is permissible to follow, in regard to this question, the fatwa of the absolute mujtahid (al_mujtahid al_mutlaq) who considers it permissible." To tell the truth, to me this kind of thing is not digestible when coming from a mujtahid mutlaq, although I have read and heard .such things from more than one mujtahid whom the common people follow

Because, a mujtahid mutlaq in his fatwas should either take an affirmative or a negative stand, and if he doesn't, has no right to be a legal authority (for taqlid). Someone may say that it is not a condition for being mujtahid mutlaq that he should never abstain from giving a definitive fatwa or give up caution (ihtiyat) in some matter, for `caution is the path of salvation' (al_'ihtiyat sabil al_najat). In answer I .would say, this is an obvious fallacy

Because, ihtiyat in a matter is something, and giving a fatwa to consult someone else is another matter. In fact when the mujtahid sees the necessity of ihtiyat in a matter, he does not give a fatwa upon it……as is the practice of legal authorities regarding ?several issues

Here we affirm al_Hakim's position, because we understand from the necessary grounds for taqiyyah that the ۹th is a requirement for wuquf in 'Arafat when that requirement can be satisfied in presence of security and absence of any fear of harm. But in case of insecurity and fear this condition does not

stand, exactly like the requirement for sajdah (prostration) in salat that it should be made on something which is not edible or wearable (ghayr al-ma'kul wa al-malbus)--a requirement which applies to conditions when security is present and .which falls in case of insecurity and fear

(Ziyarah of the Greatest Prophet (S

The ziyarah of the Greatest Prophet--may Allah's peace and benedictions be upon him and his Family--is a highly mustahabb duty. He is reported to have said, "Whoever visits my grave after my death is like one who has migrated with me in my life." He also said, "A salat in my mosque is like a thousand ones offered elsewhere with the exception of al-Masjid al-Haram, as to which a salat there is equal to a thousand in my mosque." It is emphasized that the mustahabb salat in the Prophet's Mosque should be offered between his tomb and the minbar, where, a tradition says, '.is a `garden of the gardens of Paradise

To visit all other mosques of al-Madinah, like Masjid Quba, Mashrabat Umm Ibrahim, Masjid al-'Ahzab, etc. and also the graves of the martyrs, in particular that of Hamzah (`a) at Uhud, is also mustahabb. Also mustahabb is paying visit to the tombs of the Imams (`a) buried in al-Baqi`, viz., al-'Imam al-Hasan, al-Imam Zayn al-`Abidin, al-Imam al-Baqir, and al-'Imam al-Sadiq, who upon whom all be peace and best of .blessings

As to the ziyarah of Fatimah (`a), the mother of al-Hasan and al-Husayn, it is as important as that of her father, of whom

she is a part (bid'ah). There are several reports about the location of her honoured tomb, of which the most probable seems to be the one according to which she was buried in her house adjacent to her father's mosque. When the mosque was extended by the Umayyads, the grave also came to be included inside it. This is what Ibn Babawayh (al_Shaykh al_Saduq) believed. We think this is highly probable, because it agrees closely with the tradition that her grave is in a garden between the grave (of .the Prophet) and the minbar. Allah alone has knowledge of everything

History of al–Haramayn al–Sharifayn

point

When the Prophet came to al_Madinah after the migration, the first thing that he built there was the mosque. Afterwards he built the houses by its side. At first its area was .۳۰ by ۳۵ metres, which the Prophet (S) extended, making it ۵۷ by ۵۰ metres

There was no minbar in the mosque at the time of its making. The Prophet (s) used to deliver his sermons leaning against one of the pillars, which were made of trunks of date_palms. Later, the Companions built a wooden minbar with two steps. `Umar ibn al_Khattab, during his reign, extended the mosque by five metres on southern and western sides and fifteen on the northern. He left untouched the eastern side where .the dwellings of the Prophet's wives were situated

Uthman ibn `Affan demolished the mosque and rebuilt it, extending it in area by an` amount almost equal to the one before by

Umar and left the houses of the Prophet's wives untouched. The building remained` as `Uthman had made it until al…Walid ibn `Abd al…Malik demolished it again and extended it on all sides, and including even the houses of the Prophet's wives, .together with that of `A'ishah, thus making the Prophet's tomb a part of the mosque

The building constructed by al…Walid stood until ۲۶۶/۸۷۹ when al…Mahdi, the `Abbasid caliph, greatly extended its northern side. The building endured until the year ۶۵۴/۱۲۵۶ when a fire broke out bringing down the roof and burning doors and the Prophet's minbar. The Mamluk sultan al…Zahir rukn al…Din Baybars I (۶۵۸……۶۷۶/۱۲۶۰…۱۲۷۷) ordered .its reconstruction and the mosque was restored to its original form before the fire

In ۸۸۶/۱۴۸۱, lightening struck the mosque destroying all the building except the chamber of the Prophet's tomb and a dome in the mosque's courtyard. It was rebuilt by the Mamluk king al…'Ashraf Sayf al…Din Qait Bay (۸۷۲……۹۰۱/۱۴۶۷……۹۵) in a fashion better than before. In the ۱۰th/۱۶th century the Ottoman sultan Salim had it renovated, building the mihrab (niche) on the western side of the minbar and which is .still there

In the ۱۳th/۱۹th century the Ottoman sultan Mahmud II (۱۲۲۳……۱۲۵۵/۱۸۰۸……۱۸۳۹) had the green dome constructed. During the same century the mosque again needed repairs, which were carried out by the orders of the Ottoman sultan. This time, the engineers dismantled the old building little by little gradually building in its place the new .structure which was completed in ۱۲۷۷/۱۸۶۱

The Ka’bah

It is the first`

temple ever to be built for men, a blessed place a beacon for the nations' (٣:٩٦) and the most ancient of them in the Middle East. It was first built by Ibrahim, the ancestor of the prophets, and Isma'il, his son, and the Qur'an quotes them praying as they raised :its walls

وَإِذْ يَرْفَعُ إِبْرَاهِيمُ الْقَوَاعِدَ مِنَ الْبَيْتِ وَإِسْمَاعِيلُ رَبَّنَا تَقَبَّلْ مِنَّا إِنَّكَ أَنْتَ السَّمِيعُ الْعَلِيمُ

And when Ibrahim and Isma'il raised up the foundations of the House (and dedicated (it, saying): `Our Lord, accept this from us; Thou hear all and know all'. (٢:١٢٧

Isma'il gathered the stones and Ibrahim put them on one another until the walls were raised to the height of a man. Then the Black Stone was put in its place. According to tradition, the Ka'bah (al…Bayt al…Atiq) was nine cubits high and had an area of twenty .by thirty cubits when Ibrahim (`a) built it. It had two doors, but was without a roof

As to the Black Stone, it is said to have been brought by Gabriel from heaven. It is also said that Adam brought it along with him on his descent from Paradise, that at first it was snow…white and was blackened by the deeds of men, and so on. There is no harm in not believing any of these stories and the like, nor are we obliged to establish their verity, nor to know the origin of the Stone. All we are obliged to do is to revere it (because the Prophet (s

considered it sacred and revered it. If someone asks the secret behind the Prophet's regarding this stone as sacred, all we can say is that only God and His Apostle know .best

According to some traditions the Ka'bah stood as Ibrahim and Isma`il had built it until it was rebuilt by Qusayy ibn Kilab, the fifth ancestor of the Prophet (s). The structure built by Qusayy stood until the time when the Prophet was ۳۵ years old, when a great flood demolished its walls. The Quraysh rebuilt it. When the walls were raised to a man's height the clans disputed as to who should receive the honour of lifting the Black Stone into its place. They almost came to war with one another, if it was not for .their making Muhammad the arbiter amongst themselves

The Prophet's solution was to spread a cloak on the ground. Then taking up the Black Stone he laid it on the middle of the garment. "Let the eldest of each clan take hold of the border of the cloak," he said. "Then lift it up, all of you together." When they had raised it to the right height, he took the Stone and placed it in the corner with his own .hands

May God's benedictions and His mercy be upon you, O Apostle of God! You raised the Stone first with your noble hands from the ground and then put it into its place again with your hands. Thus you made God and man well pleased

with you. This event was a definite evidence of your superiority over all, and of your being a `mercy for all the worlds', before your declaration of the apostlehood as after it. Your act was a clear sign that you were the bearer of a Divine mission, and that .those who rejected you were enemies and opponents of the truth and of humanity

The Ka'bah remained in its condition until Yazid ibn Mu'awiyah became caliph and till `Abd Allah ibn al_Zubayr challenged his sovereignty over the Hijaz. Yazid's forces installed catapults on the hills around Makkah and bombarded the Ka'bah with tens of thousands of stones. The Ka'bah caught fire which finally demolished its structure. Ibn al_Zubayr repaired it as it was before without making any changes, and he put a wooden fence around it. When `Abd al_Malik ibn Marwan came to power, Ibn al_Zubayr was besieged by his forces under al_Hajjaj ibn Yusuf, who ultimately killed Ibn al_Zubayr after causing damage to a part of the Ka'bah. Al_Hajjaj rebuilt the demolished portions and made some changes in the walls as they used to be, and also .had one of its doors (the `western door') blocked

The Ka'bah remained in the altered condition after al_Hajjaj's repairs until the year ۱۰۴۰/۱۶۳۰ when its walls collapsed due to heavy rains. Thereafter the Muslims from every corner gathered together to restore it and collected contributions from various .regions of the Muslim world to rebuild it in the form as it stands to this day

The Prophet's Mosque

p: ۱۰۹

About center

In the name of Allah

هَلْيَسْتَوِيالَّذِينَيَعْلَمُونَوَالَّذِينَلَايَعْلَمُونَ

?Are those who know equal to those who do not know

al-Zumar: ٩

:Introduction

Ghaemiyeh Computer Research Institute of Isfahan, from ٢٠٠٧, under the authority of Ayatollah Haj SayyedHasanFaqihImami (God blesses his soul), by sincere and daily efforts of university and seminary elites and sophisticated groups began its activities .in religious, cultural and scientific fields

:Manifesto

Ghaemiyeh Computer Research Institute of Isfahan in order to facilitate and accelerate the accessibility of researchers to the books and tools of research, in the field of Islamic science, and regarding the multiplicity and dispersion of active centers in this field

and numerous and inaccessible sources by a mere scientific intention and far from any kind of social, political, tribal and personal prejudices and currents, based on performing a project in the shape of (management of produced and published works from all Shia centers) tries to provide a rich and free collection of books and research papers for the experts, and helpful contents and discussions for the educated generation and all classes of people interested in reading, with various formats in the .cyberspace

:Our Goals are

(propagating the culture and teachings of Thaqalayn (Quran and Ahlulbayt p.b.u.t-

encouraging the populace particularly the youth in investigating the religious issues-

replacing useful contents with useless ones in the cellphones, tablets and computers-

providing services for seminary and university researchers-

spreading culture study in the publich-

paving the way for the publications and authors to digitize their works-

:Policies

acting according to the legal licenses-

relationship with similar centers-

avoiding parallel working-

merely presenting scientific contents-

mentioning the sources-

.It's obvious that all the responsibilities are due to the author

:Other activities of the institute

Publication of books, booklets and other editions-

Holding book reading competitions-

Producing virtual, three dimensional exhibitions, panoramas of religious and tourism- places

.Producing animations, computer games and etc-

Launching the website with this address: www.ghaemiyeh.com-

Fabricatingdramatic and speech works-

Launching the system of answering religious, ethical and doctrinal questions-

Designing systems of accounting, media and mobile, automatic and handy systems,- web kiosks

Holding virtual educational courses for the public-

Holding virtual teacher-training courses-

Producing thousands of research software in three languages (Persian, Arabic and- English) which can be performed in computers, tablets and cellphones and available and downloadable with eight international formats: JAVA, ANDROID, EPUB, CHM, PDF, HTML, CHM, GHB on the website

Also producing four markets named "Ghaemiyeh Book Market" with Android, IOS,- WINDOWS PHONE and WINDOWS editions

:Appreciation

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